SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

BETTY BULLOCK, Plaintiff,	)	
-vs-	)	No. BC 249171
PHILIP MORRIS INCORPORATED, a corporation; DUPAR'S RESTAURANT, a corporation; ROBINSON'S MAY, a corporation; HILTON HOTELS CORPORATION; STEVEN'S STEAK AND SEAFOOD HOUSE, a corporation; and DOES 4-100, inclusive, Defendants.	)	

DEPOSITION OF JOHN SNETSINGER, PH.D., taken on behalf of the Plaintiff, at 11755 Wilshire Boulevard, Suite 1170, Los Angeles, California, at 9:59 A.M., Tuesday, April 23, 2002, before FRANCES M. GARRITY, Certified Shorthand Reporter No. 8934 of the State of California,

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pursuant to Notice.

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TUESDAY, APRIL 23, 2002

JOHN SNETSINGER, PH.D.,
called as a witness on behalf of Plaintiff, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. PIUZE:

Q Okay, sir. Tell me your name.
A John Snetsinger.
Q Your occupation?
A History professor.
Q When were you first contacted on this case?
A Mid October 2001.
Q Is this the first time you've been contacted on a tobacco litigation matter?
A Uh -- no.
Q Tell me the first time you were contacted on a tobacco litigation matter?
A In August of 1999 I was contacted on -- not a specific case, but on the issue of smoking and health and doing some research.
Q Who contacted you?

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A Allen Purvis.
Q Who is that?
A A lawyer with the firm Johnson, Tyler & Purvis.
Q Where is that?
A Washington, D.C.
Q Did he tell you how he found you?
A Yes.
Q How?
A I was recommended by another historian.
Q Who?
A Michael Schaller.
Q Who is Michael Schaller?
A University of Arizona.
Q What does Michael Schaller do?
A Teaches and writes history, professor of history.
Q American history?
A Yes.
Q Did you know Michael Schaller?
A Yes.
Q For how long?
A Uh, a few years. I'm not certain how many.
Q A few years prior to '99?

A Yes.
Q Did you know Elizabeth Cobbs-Hoffman?
A Yes.

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Q How?
A Uh, I met Elizabeth Cobbs-Hoffman through Allen Purvis.
Q Where?
A In Washington D.C.
Q When?
A Uh, in October, 2001..
Q Did you go to Washington, D.C. specifically to meet with his people?
A I'm sorry, that's incorrect. I met Elizabeth Cobbs-Hoffman, uh, prior to October 2001. I would say within a year prior to October 2001.
Q Where?
A Washington.
Q And, again, was it Purvis that set it up?
A Uh, yes. It was at the firm. I believe it was in the year, maybe the end of 2000, but I'm not really sure.
Q Why were you in Washington, D.C., then?
A I was doing research on smoking and health issues and public awareness.
Q For who?

A Johnson, Tyler & Purvis.
Q Have you had any kind of research and health issues funded by anyone other than tobacco company lawyers?

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A No.
Q How much have tobacco company lawyers paid you so far for your research?
MR. STOEVER, JR.: Objection. You mean in this case or overall?
BY MR. PIUZE:
Q Overall.
A I'm not really sure, but I would say over $100,000.
Q All right. Well, I know you are not a statistician or mathematician, but I'll point out that over $100,000 doesn't have a top end. A trillion is over $100,000.
Could you give me some parameters?
MR. STOEVER, JR.: Objection. Calls for speculation.
If you can estimate, that's fine.
THE WITNESS: I can estimate it would be under $200,000 and over &100,000.
MR. PIUZE: Excellent.
Q When was the first of those payments made,

approximately?
A I'd say September 1999.
Q How many historians were present when you met with Cobbs-Hoffman and -- who was the other one, again?
A Michael Schaller.

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MR. STOEVER, JR.: Objection. Misstates his earlier testimony. I don't think he met with Cobbs-Hoffman and Schaller at that time.
MR. PIUZE: Okay.
Q Did you?
A No.
Q Okay. How long -- forgive me here. Let me backtrack a bit.
Who did you know first, Schaller or Cobbs-Hoffman?
A Schaller.
Q Who did you know first, Purvis or Cobbs-Hoffman?
A Purvis.
Q Okay. Are you aware of any other historians that are doing the same kind of research for litigation matters for the tobacco industry that you're doing generally, besides the other two that you already mentioned?
A Yes.

MR. STOEVER, JR.: Objection. Misstates his earlier testimony. I don't think that he said Schaller was doing this kind of research.
BY MR. PIUZE:
Q Well, he is, isn't he?
A I'm sorry?

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Q He is, isn't he?
A I believe so.
Q So who else?
A Larry Engelmann.
Q Spell Engelmann.
A E-n-g-e-l-m-a-n-n.
Q Is he a professor?
A Yes.
Q Where?
A San Jose University.
Q American history?
A Yes.
Q Who else?
A I don't think anyone else.
Q Have either of the other three history professors mentioned to you that they've run into other professors hired by the tobacco industry to do this kind of litigation research?
A Yes.

Q And who have they mentioned?
A I believe the name would be Ben Klein.
Q Where is he?
A San Jose State University.
Q And sometimes I've got a good memory. I'm slow starting this morning.
Tell me the other San Jose guy?

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A Larry Engelmann.
Q Engelmann. Okay.
Have you ever discussed anything with Engelmann or Klein?
MR. STOEVER, JR.: Objection. Vague and ambiguous. Anything about any subject whatsoever?
MR. PIUZE: Yeah.
Q Have you ever had met them?
A Yes.
Q Do you know them both?
A Yes.
Q How?
A I met Larry Engelmann as a professor, myself, or a lecturer of myself, at San Jose State in the late 1960s.
Q Okay. The other one?
A Ben Klein, I met once for -- at lunch.
Q Where?

A In San Jose.
Q Okay. Have you ever discussed tobacco-related issues with either of them?
A Yes.
Q What?
MR. STOEVER, JR.: Objection. Vague and ambiguous. With either of them, or with one in particular?
MR. PIUZE: We'll have to find out, but I'd guess

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it probably would be Klein, but I may be wrong.
Q With whom?
A Klein and Engelmann.
Q What?
A Uh -- no. With Klein it was far enough back I can't really remember. We had lunch once. With Engelmann I have talked about tobacco, smoking and health research.
Q With Klein how long ago was that meeting?
A Oh, maybe two years; maybe more than two years.
Q Was the meeting set up specifically to talk about tobacco, or did you happen to meet him and it was a happenstance conversation?
A No, it was set up to talk about tobacco.
Q Who set it up?
A Allen Purvis.
Q Where was the meeting?
A Uh, it was at San Jose.

Q Was Purvis there?
A Yes.
Q Who else was there?
A Larry Engelmann.
Q Okay. That's four of you. Who else was there?
A That's it.
Q How many times have you been present with Engelmann when you've discussed smoking-related issues?
A Ten times, perhaps.

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Q How many of these ten have included Purvis?
A Uh, two.
Q Where were those two meetings when Purvis was present?
A One at the aforementioned lunch in San Jose, and two would be -- second would be in Washington, D.C.
Q When it was you and Purvis and Engelmann in San Jose, who else, if anyone, was present?
A Ben Klein.
Q Anyone else?
A No.
Q In Washington, D.C. when it was you and Engelmann and Purvis, who else was prevent?
A Uh, Dan Ball.
Q Who is that?
A A lawyer with Johnson, Tyler & Purvis.

Q Was Cobbs-Hoffman present that time?
A No.
Q Have you ever met with Cobbs-Hoffman when you discussed tobacco-related issues?
A Not to my knowledge.
Q Have you ever met with her?
A Yes, I've met with her.
Q Why?
A Why?
Q Yeah.

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A We had lunch and -- we had lunch.
Q When?
A Uh, sometime in 2000 -- sometime in 2001.
Q Where?
A In Washington, D.C.
Q Who else was present?
A A lawyer for Julia Tyler. I believe that's the name, Julia Tyler.
Q Who does she work with?
A She's a lawyer with Johnson, Tyler & Purvis.
Q When Mr. -- Is it Purvis, now?
A Purvis.
Q When he first contacted you, was it a cold contact or were you expecting his call?
A I was expecting his call.

Q Why?
A Michael Schaller had called me and told me that Allen Purvis would give me a call.
Q Who did he say Allen Purvis represented, if he said anything?
A He didn't.
Q Who did Allen Purvis say he represented, if he said anything?
A Other than his firm, Johnson, Tyler & Purvis?
Q Sure.
A Philip Morris.

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Q And Julia Tyler, who did she say she represented, if she said anything?
A I don't think she said. I don't recall.
Q Where is this Purvis law firm located, D.C.?
A Yes.
Q Do you have -- have you been there?
A Yes.
Q How big is it?
A Uh, in terms of number of rooms?
Q Lawyers.
A Lawyers? Oh.
MR. STOEVER, JR.: Objection. Calls for speculation.
If you know, you can answer.

THE WITNESS: I don't know for sure, but I believe four. Four lawyers.
BY MR. PIUZE:
Q Okay. Has anyone ever discussed with you Cobbs-Hoffman's testimony in the Boeken case?
A No.
Q Do you know what the Boeken case is?
A Yes, I do.
Q Do you know that she testified in a lawsuit matter?
A I do know that.
Q How do you know that?

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A I believe Allen Purvis told me that she was going to testify or was testifying in the Boeken case, but I can't recall whether it was during the trial or before the trial.
Q Have you ever exchanged any kind of materials with any of these other historians about tobacco?
A Yes.
Q What?
A I've exchanged articles that I thought were of interest with Larry Engelmann.
Q Who initiated that?
A I think both of us.
Q Whose idea was that?

A I don't know.
Q It's not restricted to the two of you, now. It could be Purvis' idea, for instance.
A No.
Q Have any lawyers told you that maybe you should pull your resources with the other historians in order that everyone can have a full deck of information?
A No.
Q Do you know who Betty Bullock is?
A Yes, I do.
Q What do you know about her?
A I know she has a lawsuit against Philip Morris.

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Q What else do you know about her?
MR. STOEVER, JR.: Objection. That's broad. If you want to ask a specific question, that's fine.
MR. PIUZE: It's pretty specific.
MR. STOEVER, JR.: It seems to me to be very vague and ambiguous, overly broad and difficult to answer. It seems objectionable to me.
BY MR. PIUZE:
Q It seems to me if your role in this case is somehow to figure out what she could have, should have, must have known, you'd have to know how old she was, where she lived, what she read and watched.

People have told you all that stuff, right?
MR. STOEVER, JR.: Objection. It's vague and ambiguous. It's argumentative. It's compound.
BY MR. PIUZE:
Q The outstanding question is people have told you all that stuff, right?
A No.
Q No? Okay.
How old is she?
A 63 years old.
Q How do you know that?
A From -- I believe from her deposition.
Q Did you read all of her deposition?
A Yes.

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Q Besides her deposition, what else have you read that's case specific to Bullock vs. Philip Morris?
A Her complaint in the case.
Q Really?
MR. STOEVER, JR.: Let me note an objection. I think the question is vague and ambiguous.
Are you asking what pleadings he's read?
MR. PIUZE: No.
MR. STOEVER, JR.: Anything related to his work in the case?
MR. PIUZE: No, neither.

Q What else besides the depositions have you read that is case specific to Betty Bullock?
MR. STOEVER, JR.: I'm going to object. I don't know what "case specific" to Betty Bullock means.
MR. PIUZE: Okay.
Q How many depos have you given in your life, sir?
A Prior to today?
Q Yes.
A One.
Q Where?
A San Francisco.
Q When?
A In 2001.
Q Name of the case?

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A Duffy vs. Snetsinger.
Q What was that about?
A A property case in San Francisco.
Q Were you an expert witness in that case?
A No, no.
Q This is the first time you've ever testified under oath as an expert witness?
A Yes.
Q Including in court?
A Yes.

Q Including in arbitrations?
A Yes.
Q The court reporter, for money, has agreed to come here and take down everything that we're going to say. She's going to make a booklet later on, a transcript, with questions and answers. You're going to have a chance to read it sometime. If you want to change it, correct it, add to it, delete from it, it's your right. If you change or correct something that I think is important, add or delete something I think is important, I retain the right to tell the judge and jury about it. It might effect your credibility, might effect the outcome of the case, so it's best that you not have to do any of that and you get everything right the first time, which is now.
In order to help you, I have three rules I'd like for you to follow. One, don't try to talk when I do

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or we'll make it difficult for the court reporter, and if we're both talking at once you might not hear my question.

When you answer, please answer out loud, in a clear voice. She has a lot of trouble, or at least she used to, between "huh-uh" and "uh-huh," so if you can answer audibly and verbally, that's what I'd like. No body language can be taken down. If you say one thing with your voice and another thing with your eyebrows, that's going to make it tough. Say what you want to say with your voice.

Okay?

A Yes.

Q Last one. If there's anything you don't understand, if there's anything wrong with my question, from A to Z and one to a trillion, lots of things that could be wrong with my question, tell me and I will make it right.

Any questions before we go further?

A No.

Q From what I said, is there anything you want to change of anything you've already said?

A No.

Q Okay. So besides the complaint and besides the depositions, what else have you read that has to do with Betty Bullock?

A I've read newspapers, magazines, seen television programing, uh, public health announcements and

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initiatives that, among other things, that I think that Betty Bullock would have been exposed to. It includes information on public school initiatives, ordinances, county ordinances, city ordinances, that would have effected her polling, all in an effort to understand Betty Bullock's lawsuits.

Q Okay. We'll come back to case specific to Betty Bullock.

What else besides the lawsuit and deposition have you read that have to do specifically with the Betty Bullock case.

MR. STOEVER, JR.: Objection. Vague and ambiguous. Do you understand what he means?

THE WITNESS: I believe those are the items, as I understood case specific, that I have looked at.

BY MR. PIUZE:

Q Lawsuits and depositions, period?

A Depositions, including the depositions other than her in this case.

Q Who?

A Her siblings.

Q Okay.

A And her friends.

Q What are the names of her siblings?

A Uh, in descending order, the eldest is Kaye Warner, Jeanine Lynch Alvarez, William Kenny,

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Margaret Kenny and, uh, Carol Kephart.
Q Where does Betty fit in there?
A Uh, Betty is the -- of the surviving children, there was seven children, one is deceased, she would be third eldest behind Kaye and Jeanine.
Q What is Betty Bullock's birth date?
A I don't know her birth date.

Q The year?
A 1938. Sorry.
Q Jeanine's?
A Jeanine is '71. I believe it's '71. So she would be eight years -- maybe 1930.
Q And bill's?
A Bill would be 60. 60.
Q What's the name of the sibling that died?
A Bernard.
Q What radio station did Betty Bullock's father work for?
A I can't recall the call letters now.
Q What type of radio station was it?
A All kinds of programing. Music, news, variety of different programing on the news station.
Q What did the father do at the news station?
A He did different things, had his own program. He -- apparently he sold advertising. Uh, I believe he had a range of roles on the radio station.

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Q Did he sell cigarette advertising?
A Not to my knowledge.
Q Did the radio station carry cigarette advertising?
A I don't understand.
Q In the family, before Betty Bullock left the

family -- do you remember what year that was that she left?
A 1956.
Q Who smoked in the family?
A Uh, there's some question who smoked, given the descriptions in the depositions. Betty either smoked occasionally or smoked one cigarette, according to the information I've read.
Two of the siblings suggest -- not suggest. Two of the siblings state that her father smoked cigarettes and one said that her mother smoked cigarettes, and I believe -- I'm not certain, but I believe one of the elder -- one of the elder -- in fact I believe one of the elder siblings also smoked, but I can't remember which one.
Q How old was Betty Bullock when she had her first cigarette?
A From her only report, it would have been 17.
Q Who else would report differently?
A Well, two of the siblings I believe suggested that she smoked. One sibling -- I'm sorry. One sibling said she smoked occasionally before she left Watertown.

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Q Would that change the age --
A I don't know.
Q -- or change the amount?
A I don't know. The only description that was given was she smoked occasionally.

Q Which sibling said that?
A I'm not sure.
Q Okay. Have you seen any kind of tape recording transcripts from anything?
A No.
Q Transcripts of conversations?
A I don't think I understand the question.
Q Philip Morris talked to Betty Bullock's husband. Their investigators talked to Betty Bullock's husband.

Have you ever seen any transcripts of conversations they had with the husband?
A No.
Q Philip Morris investigators have talked to other friends of Betty Bullock.

Have you seen any transcripts of conversations?
A No.
Q Have you seen any kind of medical records regarding Betty Bullock?
A No.

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Q Any kind of compilations or summaries of medical records of Betty Bullock?
A No.
Q Versions of interrogatories from Betty Bullock?

A I believe I've seen the Answers to Interrogatories.
Q Okay. And you know those interrogatories are prepared by the client and the lawyer.
Did you know that?
A No. I'm not familiar with the process.
Q What is the smoking history that she gives in the Answers to Interrogatories?
A You know, I don't recall.
Q All right. What year, according to the documents that you've reviewed, did Ms. Bullock come to Los Angeles?
A 1956.
Q What year did she start smoking in Los Angeles?
A 1956.
Q Do you have anything in the documents you brought today from 1956?
A Yes.
Q What?
A Newspaper articles.
Q From where?
A Los Angeles Times.

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Q Okay. What else?
A Just to go through it quickly, uh, 1956 -- let's see. Oh, I believe I have magazine articles.

Q From where?
A 1956.
Q From where?
A I'm not sure exactly, because they're a collection of magazine articles.
Q How did you choose which magazines?
A From reading Betty Bullock's deposition and those of her siblings.
Q In 1956, in Los Angeles, what magazine, if any, was she looking at?
A Reader's Digest.
Q How do you know that?
A Because she said in her deposition that once she was aware of Reader's Digest being around that she read Reader's Digest, I think the term is a lot, and two of her siblings say that Reader's Digest was around in Watertown when she was growing up.
Q Okay. I remember that. What about when she moves to Los Angeles? Was Reader's Digest around?
A Uh, I don't know if it's around. I'm not sure what you mean by "around."
Q Just using your word.
MR. STOEVER, JR.: Objection. Vague and ambiguous.

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MR. PIUZE: He used it and I just picked it up.
Q Whatever it is you meant by it, that's what I meant by it.
MR. STOEVER, JR.: I think it misstates the testimony. I think he used words that were used in the deposition of Ms. Bullock.
MR. PIUZE: Yes, he did. Well, that's wrong.
MR. STOEVER, JR.: It's not his words. It's Ms. Bullock's word.
BY MR. PIUZE:
Q What is it that you had in mind about around?
THE WITNESS: I think it was around.
BY MR. PIUZE:
Q In North Dakota?
A No, in Los Angeles.
Q Was it around in the home where she was living in Los Angeles?
A I don't know that.
Q Okay. So let me come back then.
In Los Angeles in 1956, when she got here and commenced smoking in Los Angeles, what magazines was she reading? Do you know?
A Again, I believe that the two magazines that she -- that she read in Los Angeles would be Life magazine and Reader's Digest.
Q Why do you believe Reader's Digest?

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A Because she says that once she came in contact with Reader's Digest that was a magazine she liked, she read, and she first came in contact with it apparently in Watertown. And she said that in Los Angeles, uh, she went to the public library and read magazines.

Q Okay. And what was the other one, Life magazine?

A Life.

Q Why Life?

A Because she said in her deposition that she likes Life magazine. She include it throughout her deposition as something that she read. And in one comment she said that she read -- she would read Life magazine cover to cover. And I know from the deposition of her siblings that Life magazine was in the home in Watertown, so --

Q Okay. So who went out and put their hands on Life magazines in order to go through them for this project that you're taking on here, you?

A No. I had, under my direction -- I had research assistants find the articles in Life magazine that I thought would be relevant.

Q Where were your research assistants?

A In two different locations.

Q Okay.

A One would be in San Luis Obispo, California,

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one research assistant; and two research assistants at the University of California at Irvine.

Q Okay. Who was the one up at San Luis Obispo?

A Shannon Bateman.

Q Student of yours?

A Yes.

Q Graduate student?

A No.

Q Who was the one at UCI?

A Betta Johnson and Roberta Blacker.

Q How did you get in contact with them?

A I contacted the history graduate office at UC Irvine and asked if they could recommend Ph.D. Candidate students who could help me with research projects.

Q Why UC Irvine as opposed to any other university?

A Because UC Irvine had newspaper archives for Orange County editions of the Los Angeles Times and the Register, both of which I felt were important.

Q Were these two Ph.D. Candidates down at UCI looking up anything in any publications other than the two newspapers that you mentioned?

A Yes.

Q What?

A Life, Look.

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Q Period?
A Uh, let me -- no. They've had a variety -- let me think. They've had a variety of projects. They also looked up some press releases that I have from the Philip Morris Corporation to see if they're recorded in the L.A. Times and the Orange County Register.
Q What do you mean that they've had a variety of projects?
A They've done different projects at different times.
Q Not just on Bullock?
A Oh, no, I'm sorry. I meant they've worked on Bullock, but on different print sources.
Q Well --
A The Orange County Register, the L.A. Times, Orange County edition, Life, Look, I even think perhaps a small portion of the work on Reader's Digest. And also they've checked the newspapers for press, Philip Morris press releases.
Q What newspapers? Same two newspapers?
A Same two newspapers, yes.
Q Who, when and where did you come into contact with the press releases? How did that all come about?
MR. STOEVER, JR.: Objection. Vague and ambiguous. Compound.

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If you understand the question, you can answer.
MR. PIUZE: Compound being more than one question at once. It's definitely compound.
THE WITNESS: Could I hear the question again?
MR. PIUZE: No. It was three questions.
Q Who plugged you into the press releases from Philip Morris?
A Arnold & Porter.
Q Who at Arnold & Porter?
A Tom Stoever.
Q When did Tom Stoever do that?
A Uh, at two different times over the past three months, and I can't remember exactly when.
Q Okay. Where did you first meet Tom Stoever?
A In L.A.
Q When did you first meet Tom Stoever?
A About late October 2001.
Q At whose urging did you meet Tom Stoever?
MR. STOEVER, JR.: Objection. Vague and ambiguous.
BY MR. PIUZE:
Q Go ahead.
A Mauri Lighter.
Q Who is Mauri Lighter?
A Mauri Lighter is a lawyer with Arnold & Porter.
Q How did you first come into contact with

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Mauri Lighter?
A He was introduced to me by Allen Purvis.
Q Where?
A In Los Angeles.
Q When?
A Uh, actually, first was in maybe January of -- I'm not sure -- over a year ago in Los Angeles.
Q How many times have you met with Mr. Lighter?
A Three times.
Q All in Los Angeles?
A Yes.
Q Who was present at each? Just take them chronologically?
A The first meeting, which occurred over a year ago, maybe -- I'd have to say over a year ago -- I'm not sure of the exact date -- would have been Mauri Lighter, Allen Purvis, and I believe one or two other lawyers from Arnold & Porter, but I can't remember their names.
Q How did you first get hooked up with Arnold & Porter?
A Uh, Allen Purvis asked if I would like to meet with Arnold & Porter with the possibility of a research position on smoking and health related to a specific case.
Q Was this the first time that you were put onto a specific case?

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MR. STOEVER, JR.: Objection. Misstates his earlier testimony. He was not necessarily put on a specific case.
If you understand the question, you can answer.
THE WITNESS: I'm referring to a meeting about 15 months ago and I -- this did not lead to me being involved in a case.
MR. PIUZE: Let's do it again.
Q The first time you met Lighter was through Purvis, right?
A Yes.
Q About 15 months ago?
A Over a year ago.
Q I don't care whether it's 13, 14, 16. It doesn't matter to me. And this meeting was in Los Angeles?
A Yes.
Q And at that time you'd already been in contact with Purvis, for what, more than a year?
A Yes.
Q And at the time you had already been doing general research?
A Yes.
Q Did anyone describe any specific litigation project?
A No.

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Q If I'm hearing all this right, the first specific litigation project that you've been involved with is Bullock vs. Philip Morris?
A Yes.
Q I caution you in advance of the question that if you have not been disclosed as an expert witness in other cases then I don't really have a right to know the names of the other cases, okay? So I don't want you blurting them out, so then Mr. Stoever will object.
All right?
A Yes.
Q Are you engaged in other litigation matter for the tobacco industry now?
A No.
MR. STOEVER, JR.: Let me just also caution you that in addition to not knowing the names of other cases that Mr. Piuze is not entitled to know the substance of your conversation with lawyers about other matters in which you've not been designated as an expert.
You've already answered the question, so --
MR. PIUZE: This is the only specific litigation matter that you have been involved in, to date, regarding tobacco?
A Yes.
Q This is either a memory test for you or math

test for you or a math test for me, but before you Purvis &

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Lighter met in excess of a year ago, how long had you been doing consulting and/or research under Purvis' auspices?

A Under Purvis' auspices?

Q Yes.

A You mean working for Johnson, Tyler & Purvis?

Q Yes.

A Over a year. Something over a year.

Q Okay. So let's concentrate on the one year. Give me an approximate month and year that you started.

A Oh, August 1999.

Q Okay. And your official start was marked by what, a handshake, contract, money, exchanging hands, what?

A None of those.

Q Okay. How did it occur?

A Uh, I developed a research plan for fees, and on a monthly basis billed Johnson, Tyler, Purvis.

Q Before you developed a monthly plan there had to have been an offer and acceptance. Someone must have said, "Will you do this for us?" And someone said, "How much," something along those lines.

A Alan Purvis said if I were interested about the problem of smoking and health, in general project, not specific, not case specific, that if I billed Johnson, Tyler, Purvis, I would be paid.

Q Okay. And when you originally got in contact with Mr. Purvis, was it way back then that he told you he

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represented Philip Morris?
A Yes.
Q Let's stay there for a second.
Philip Morris, as opposed to other tobacco-related companies or entities?
MR. STOEVER, JR.: Objection. Vague and ambiguous.
Are you asking him what Purvis told him about who he represented?
MR. PIUZE: Yes.
MR. STOEVER, JR.: He answered that, didn't he?
MR. PIUZE: No. I'd like him to answer.
THE WITNESS: Can I hear the question again?
MR. PIUZE: Sure. I'm giving you a second chance after giving me a weak explanation to nail this done one way or the other.
Q At all times has Purvis said that he represented Philip Morris, exclusively, as far as his dealings with you?
A I don't think he ever said that.
Q What is it that he did say?
A He said that he represented Philip Morris.
Q Has he ever told you that he represents other tobacco company interests?

A No.
Q Has he ever told you that other tobacco company interests are funding your work?

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A No.
Q To the best of your knowledge -- well, forget that.
Have your checks always come from Mr. Purvis, up until the time, I guess, they started coming from Arnold & Porter?
A Yes.
Q When did they start coming from Arnold & Porter?
A After I agreed to work on the current case.
Q All right. So let’s still stay with the first year.
For the first year or so all the checks came from Purvis?
A Yes.
Q Since that time, after you agreed to work on the Bullock case, have you, in addition to being paid by Arnold & Porter, are you still been paid by Purvis for other stuff?
A No.
Q Remind me, when’s the last time you saw Mr. Purvis?

A In 2001. Earlier in 2001.
Q More than 15 months ago?
A Yes.
Q So since -- you haven’t seen him since you

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agreed to become involved in Bullock, correct?
A Correct.
Q What about the woman -- I forget her name -- Tyler?
A Julia Tyler.
Q Have you seen her since you've agreed to become involved in Bullock?
A No.
Q What's the last communication you had with Ms. Tyler? What was that all about?
A I had lunch with Julia Tyler and Lisa Cobbs-Hoffman prior to October 2001 in Washington, D.C.
Q Yeah. And why were you there in Washington, D.C.?
A Uh, I was doing some work with the archive of Johnson, Tyler & Purvis.
Q They have an archive?
A Yes.
Q What is in the archive?
A A variety of materials on smoking and health,

newspapers, magazines, television programing, polling.
Q They have their own private library?
A Yes.
Q Having to do with who, what, where and when?
MR. STOEVER, JR.: Objection. Vague and ambiguous.

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Compound.
If you understand the question, you can answer.
THE WITNESS: They have a library.
BY MR. PIUZE:
Q And the library, as you understand it, deals with what the public was supposed to know about smoking?
A I don't know that. I don't know if I can characterize the scope of the library.
Q Did they ever tell you what the purpose of the library was?
A Not in so many words.
Q Did you deduce what the purpose of the library was?
A I believe so.
Q What was your deduction?
A It was to offer a resource for historians working on smoking and health projects.
Q Okay. What smoking and health projects do historians work on besides those having to do with

litigation, to your knowledge?
A I'm not aware of individual research projects undergone by historians in the area, but I would think that there would be some.
Q So whether you're right or wrong on what you think, and I'm not belittling that at all, based on what

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you know, all historical research projects involving tobacco have to do with litigation?

MR. STOEVER, JR.: Objection. Misstates his earlier testimony.

THE WITNESS: I don't believe that's the case.

BY MR. PIUZE:

Q Okay. Why don't you believe that's the case?

A Because I think there are potentially a lot of research projects that involve health issues and smoking that historians would be interested in, are interested in.

Q Do you know any historians that are working on such a project, other than for litigation?

A No.

Q Has anybody told you of any historian who is working on such a project, other than for litigation?

A I don't recall.

Q So to the best of your knowledge, no?

A I don't know of any.

Q Okay. How big is this archive that Philip

Morris lawyer Purvis has?

MR. STOEVER, JR.: Objection. Assumes facts not in evidence.

BY MR. PIUZE:

Q Go ahead.

A Can you define how big in volume of materials, types of material?

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Q Let's start with volume. Will it fit in a bread box?
A It would be three, probably about three -- this is just an estimate.
Q Sure.
A It would be about three rooms, the size of the conference room we're in, that would hold materials.
Q And why don't you, just in case the jury never hears this, why don't you tell the jury how big the room is.
A The room we're in, I would guess -- I would estimate is maybe about 15 feet X 10.
Q Well, let's see. Watch this. I'm a little over six feet nowadays.
(Attorney pacing room.)
MR. PIUZE: Six paces that way (demonstrating).
THE WITNESS: 18 feet, perhaps.
How many?

BY MR. PIUZE:
Q Five paces that way (demonstrating).
A So perhaps 18 X 15 is a better estimate.
Q Okay. So Mr. Purvis has these rooms this size?
A Johnson, Tyler & Purvis does.
Q And how many bookshelves would be in the room? Would they be bookshelves down the middle?

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A Maybe three of the four walls would have, on average, the equivalent of three rooms this size with shelves on three of the four walls.
Q Okay. Nothing in the center?
A Not that I recall now. There would be tables in the center.
Q They had movies?
A Yes.
Q Videos?
A Yes.
Q Is there audio material, to your knowledge?
A I don't know.
Q Does it deal with only Philip Morris products, to your knowledge?
A No.
Q Is it specific to any kind of product, to your knowledge?

A No.
Q Is there any advertising in there, to your knowledge?
A Not that I know of.
Q Up until the time when you were introduced to Mr. Lighter -- I don't want to quite get there, I'm sorry. Back in D.C., you, Tyler, Cobbs-Hoffman -- did Cobbs-Hoffman tell you why she was there?
A No.

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Q Did you discuss the Boeken case at all?
A No.
Q Have you ever seen any transcripts or testimony from the Boeken case?
A No.
Q Have you ever seen any exhibits from the Boeken case? Knowingly seen exhibits from the Boeken case?
A No.
Q To put it bluntly, has anyone ever given you exhibits and said these were used in the Boeken case?
A No.
Q Has anyone ever discussed with you Cobbs-Hoffman's testimony in the Boeken case?
MR. STOEVER, JR.: Objection. Asked and answered. He's already said no.
MR. PIUZE: I guess he can remember that and tell me

again, then.
THE WITNESS: Could I hear the question?
MR. PIUZE: Sure.
Q Has anyone ever discussed with you Cobbs-Hoffman's testimony in the Boeken case?
MR. STOEVER, JR.: Objection. Asked and answered.
You can answer the question, if you understand.
THE WITNESS: No.
BY MR. PIUZE:

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Q If she didn't discuss the content of her testimony, did she discuss, in any way, the trial experience in the Boeken case?
MR. STOEVER, JR.: Objection. Vague and ambiguous. Who is "she"?
MR. PIUZE: Cobbs-Hoffman.
MR. STOEVER, JR.: Do you understand the question?
THE WITNESS: No.
BY MR. PIUZE:
Q Or the pretrial experience in the Boeken case, Cobbs-Hoffman?
A No.
Q Did Tyler ever discuss Cobbs-Hoffman's performance in the Boeken case with you?
A No.

Q Up until the time that you first heard Betty Bullock's name, what had you done in your tobacco research project?
A Uh, that's a broad question.
Q Sure.
A I think I had done a lot of reading of secondary and primary materials. I visited a variety of archives that have materials of interest. They would include newspapers, polling data, public service announcements, county and city ordinances.
Q Did anyone make any suggestions to you as to

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how you should start?
A No.
Q I've got Purvis in mind.
A No.
Q Okay. When he asked you to do something, what is it that he originally asked you to do?
A To develop my own independent research plan for studying the broad topic of smoking and health issues in America since 19- -- primarily since 1945, the end of the second World War.
Q That's what he asked you to do?
A Maybe not even as broad as putting the date on this.
Q Did it ever occur to you to say, "Listen here,

Mr. Purvis, I know you've already got several other historians working on a similiar projects, why do you need yet another one"?
A No, I didn't.
Q You knew other historians were working on similiar projects, didn't you?
MR. STOEVER, JR.: Objection. Vague and ambiguous. What time, when he agreed to work with Purvis?
MR. PIUZE: Sure.
THE WITNESS: Yes.
BY MR. PIUZE:
Q Who did you know was working on a similar

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project?
A Michael Schaller.
Q Who else did you know was working on a similar project?
A No one else.
Q Had Schaller ever told you about Cobbs-Hoffman?
A No.
Q Had Schaller ever told you about the two people up at San Jose State?
A No.
Q Klein and who?
A Engelmann.
Q You only learned about them later on, right?

A Yes.
Q Did Schaller tell you that there were other people in there with him other historians in this project with him, before you got involved?
A No. Or I don't recall him saying that.
Q Did Purvis ever tell you that?
MR. STOEVER, JR.: I'm going to object as vague and ambiguous as to time. And I think he's already testified that he knew Schaller was working when he met with Purvis.
MR. PIUZE: So this is everybody else.
THE WITNESS: Could I hear the question again?
MR. PIUZE: Sure. Maybe not the specific question, but my reasonable facsimile.

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Q Did Purvis, prior to your signing onto the project, ever tell you that there were historians other than Schaller who were working on similar projects?
A I believe so.
Q Okay. Who did he say?
A I don't remember.
Q The amount, number of people, volume of people?
A I don't know.
Q Okay. Did he say he had a cast of 100,000 historians lined up?
A No.
Q More than one?

A I don't believe -- I don't recall that he gave me a number.
Q Okay. You're a pretty bright guy, right?
A I'm not so sure. It's not for me to judge.
Q Schaller is a pretty bright guy?
A He is.
Q Did it ever occur to you to ask Purvis, "If you already got Schaller doing it why do you need me to do that"?
A Can you repeat the entire question?
Q Did it ever occur to you to ask Purvis, "If you've already got Schaller doing this why in the world do you need me to do the same stuff"?
A No.

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Q Has it ever occurred to you?
A No.
Q Okay. Did you know during your first year on the project that you were probably going to wind up in litigation?
A Did I know? No.
Q Did you ever consider that possibility?
A Yes.
Q Why?
A Because I knew that that had been Schaller's experience.

Q Because Schaller told you that?
A I don't recall whether he told me that, but --
Q It would have to be either Schaller or Purvis, right?
A Yes.
Q And whoever it was, whichever one it was, what had Schaller's experience been?
A I don't know.
Q One trial?
A I don't know.
Q Any trials?
A I just don't know.
Q When you just said you know it had been Schaller's experience, what is it that you had in mind by that?

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A Experience that a trial could be either in the future or already had one, but I really don't remember the specifics.
Q Do you know right now whether Schaller has testified at a trial?
A Yes, I do.
Q What is the answer?
A Yes. The answer is yes.
Q How do you know?
A He told me.

Q How many trials?
A I believe one.
Q Where?
A I believe New York.
Q Name?
A I don't know.
Q Up until the time that Betty Bullock's name was first mentioned to you how much had Purvis paid you?
A I'm not sure.
Q Approximately.
A A broad approximation maybe $88,000.
Q And that would have been over a year's period of time?
A No, over two years period of time, I believe, yes.
Q Yes?

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A Yes.
Q Your start date, remind me, was what?
A I'd say August. I know August 1999.
Q Okay.
A And I first began to work with Arnold & Porter in late October/November of 2001.
Q Okay. Now, aside -- remind me. Purvis said we want you to do research on smoking and health issues, right?

A Yes.
Q And was no more specific than that?
A As best as I can recall. I mean, it was very broad. I don't think those were his exact words, but I don't recall what his words would be.
Q We want you to be able to tell us what the average person knows about smoking and health? How's that?
MR. STOEVER, JR.: Objection. Asked and answered. Calls for speculation he said he can't remember.
THE WITNESS: I don't remember.
BY MR. PIUZE:
Q Is that what you understood your task to be?
A Can you repeat what your phrase was?
Q Yeah.
We want to know what the average person knew about smoking and health?

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A I'd say that would be a part of what I considered my project, my detail.
Q Okay. What else did you consider to be your procedure and/or detail?
A First I believe that I needed to get a general background in the area by just generally reading in the field without focusing on so much what I might call public awareness. And when I began the project, I read broadly.

Q Let me just interrupt. I'm interested at the very beginning of the project when you're agreeing to accept funds from a lawyer who says he represents Philip Morrow, it's at that point right there that I'm interested in what's in your mind as to what is entailed, what you're looking for.
So what is the answer?
MR. STOEVER, JR.: Okay. It's vague and ambiguous.
If you understand the question, you can answer.
THE WITNESS: I wanted to begin with -- I wanted a broad familiarity with the topic of smoking and health issues in America, of which public awareness would be a part.
BY MR. PIUZE:
Q What other issues were there besides public awareness? I mean, smoking and health in America is an enormously broad concept, isn't it?

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A Yes.
Q How many people died last year from tobacco-related illnesses?
MR. STOEVER, JR.: Objection. Vague and ambiguous. If you know.
BY MR. PIUZE:
Q Historically speaking.

A I don't know.
Q How many people have died in America, in any year, since 1945, any given year, from tobacco-related illnesses?
A I don't know.
Q How many people have died, total, in America since 1970 from tobacco-related illness?
MR. STOEVER, JR.: Objection. Calls for speculation. It's beyond the scope of this witness' expert designation.
THE WITNESS: I don't know.
BY MR. PIUZE:
Q Isn't one of the things I saw on the index there stuff from the Surgeon General's report?
A Yes.
Q Doesn't the Surgeon General tell you how many people are dying from tobacco in America?
A The Surgeon General, as with other reports, would present their figure, their estimate, of what it

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would be, but not being a medical expert I'm certainly limited here. But I know that it's -- the issue is in doubt over the number of people who have died of smoking.

Q Who said it's in doubt?

MR. STOEVER, JR.: I'm going to object. It calls for speculation.

If you know the answer, go ahead. But if you don't know the answer --

THE WITNESS: Again, there is not an answer. I feel that I'm not familiar with that. But I know from my reading that this is an issue in which people differ.

BY MR. PIUZE:

Q I know. And so I'm asking -- we talked about the Surgeon General and his people, or her people, on the one side, and I want to know who is on the other side? Who differs?

MR. STOEVER, JR.: Calls for speculation.

If you know the answer, fine. If you don't, that's fine, too.

BY MR. PIUZE:

Q Go ahead.

A I don't know the broad range of varying opinions on this.

Q Based on the reading that you've done, $200,000 worth, maybe, who is on the other side of the issue about how many people died from smoking?

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MR. STOEVER, JR.: Objection. Asked and answered. He's already said he doesn't know. And it also calls for speculation and it's argumentative.
BY MR. PIUZE:
Q Go ahead.

MR. STOEVER, JR.: If you understand the question go ahead. If you have an answer, that's fine. If you don't know, that's fine, too.
THE WITNESS: I know that Jacob Sullen in his book on public health challenges the figures that are used frequently, but, again, I'm not an expert in this area.
BY MR. PIUZE:
Q Spell the last name.
A S-u-l-l-e-n.
Q What's his number?
A What's his what?
Q Number.
A Who?
Q What is the surgeon general's number?
MR. STOEVER, JR.: Objection. Vague and ambiguous.
BY MR. PIUZE:
Q Either per decade, per year or any other way you want to give it to me.
After doing all this historical research, I'd like to know how many people you think die -- I'm sorry. How many people the Surgeon General has estimated died of

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tobacco-related illnesses?
MR. STOEVER, JR.: Objection. Calls for speculation. Beyond the scope of this witness' designation.

If you know, that's fine. If you don't know, that's fine, too.
THE WITNESS: I've seen the figure in the Surgeon General's report somewhere, maybe, 300,000, 400,000, but, again, I'm not an expert on the issue.
BY MR. PIUZE:
Q 300,000 deaths?
A Yes.
Q Per what?
A Year.
Q For how many years?
A I don't know.
Q Do you know what 300,000 times 50 is?
A 1,500,000.
Q Not remotely right. 15 million.
A 15 million, sorry.
Q Now you backed up all the way to 1945, didn't you?
A Yes.
MR. STOEVER, JR.: We've been going for about an hour. Could we take a break?
MR. PIUZE: Do you want a break?

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THE WITNESS: No.
MR. PIUZE: Fine.
MR. STOEVER, JR.: I would like a break because I

would like to use the bathroom. May I take a break?
MR. PIUZE: Sure.
(Brief recess.)
BY MR. PIUZE:
Q How often do you come to Los Angeles?
A In general?
Q Yeah.
A Once every other month.
Q Have you ever seen billboards, electronic billboards that keep track day-to-day how many people are dying in America from tobacco-related illnesses?
A I don't recall. I don't recall seeing such a billboard.
Q Now, what year were you born?
A 1941.
Q Have you ever smoked?
A Yes.
Q Tell me about your smoking history.
A Uh, I believe I've smoked a total of ten cigarettes in my life, and it was as a college student.
Q What year?
A 19- -- probably early 1960s.
Q Why?

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A I don’t remember.
Q What kind?

A I have no idea.
Q Okay. When did the Surgeon General first weigh in on the issue of smoking and health?
MR. STOEVER, JR.: Objection. Vague and ambiguous. "Weigh in"?
BY MR. PIUZE:
Q If you understand it, you go ahead. If you don’t understand, don’t forget what I told you at the beginning of this deposition. If my question isn’t clear, don’t answer it. I will do better?
A I believe Leroy Bernie was the first Surgeon General to weigh in on the issue.
Q When?
A In the late 1950s.
Q Was he invited?
MR. STOEVER, JR.: Objection. Vague and ambiguous "invited?"
BY MR. PIUZE:
Q Did someone ask him to say something?
A I believe in part.
Q Who?
A I don’t remember right now.
Q In what forum did he give his opinion?
A Two different forums.

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Q Which?
A One was an article he wrote for a medical journal.
Q Which?
A I don't recall.
Q Okay.
A And the other was a statement as Surgeon General.
Q What years?
A 1957 to '59.
Q Which came first?
A I don't recall.
Q Did Eisenhower smoke?
A Yes.
Q Cigarettes?
A Yes.
Q When did he stop, if he stopped before he died?
A He did stop, I believe. And I don't remember the time.
Q Was Eisenhower a heavy smoker?
A At one time.
Q When?
A Second World War.
Q How heavy?
A I don't know.

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Q Was Franklin Roosevelt a smoker?
A Yes.
Q Was he a heavy smoker?
A How would you define heavy smoker?
Q Pack a day?
A He smoked a pack a day.
Q Did he smoke more than a pack a day?
A I've seen it referred to that he smoked a pack a day.
Q Where?
A Where?
Q Yes, where did you see that referred to?
A Uh, two sources. One would be No Ordinary Time Doris Kerns Goodwin. The second source would be Blanche Cooks, Biography of Roosevelt, Volume II. And I believe a third source would be Robert Farrell in The Dying President. And each of these three sources referred to Franklin Roosevelt's heavy -- smoking a pack a day.
Q Which is it, heavy smoking or smoking a pack a day or both?
MR. STOEVER, JR.: Objection. You indicated heavy smoking is a pack a day. I think the testimony may be unclear. If you understand what Mr. Piuze means by heavy smoking or pack a day, that's fine, you can answer. But I

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think the question is unclear.
MR. PIUZE: Well, the question is very clear. The question gave him back his own words. I'm asking what he meant.
MR. STOEVER, JR.: Then I'll saying it's asked and answered. He's already testified that he smoked a pack a day or sources said he smoked a pack a day.
BY MR. PIUZE:
Q Go ahead, sir.
A It seems to me Doris Kerns Goodwin used the specific term as pack a day, as president, and that sticks in my mind.
Q And the others used heavy?
A I don't recall.
Q The Dying President was that generic or Franklin D. Roosevelt?
A Franklin D. Roosevelt.
Q Can you picture Roosevelt?
A Yes.
Q Can you picture Roosevelt with a cigarette?
A Yes.
Q Can you picture Roosevelt with a cigarette in a cigarette holder?
A Yes.
Q Is that how he was frequently pictured is with

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a cigarette in a holder?
MR. STOEVER, JR.: Calls for speculation. If you know how he was frequently pictured.
THE WITNESS: At times he was pictured in that manner.
BY MR. PIUZE:
Q Do you ever remember seeing him holding a cigarette without the holder?
A Yes.
Q Okay. Do you know what the word "jaunty" means?
A Yes.
Q What does it mean?
A Boyant, optimistic.
Q Was that the image Franklin Roosevelt portrayed, boyant and optimistic?
MR. STOEVER, JR.: So are you asking him about the image portrayed that he picked up, or the image Franklin Roosevelt tried to project?
MR. PIUZE: Either.
MR. STOEVER, JR.: Then the question is vague and ambiguous. I don't understand it.
If you do, you can answer.
BY MR. PIUZE:
Q Of course someone who said he had nothing to

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fear but fear itself would be wanting to project a boyant and optimistic image, wouldn't he?

A Among other things.

Q The American population, from what you've been able to ascertain as a historian, pictured Roosevelt as jaunty, boyant, optimistic personality, correct?

A At times.

Q And the cigarette and the manner in which he held it added to that perception, correct?

MR. STOEVER, JR.: Objection. Calls for speculation. Vague and ambiguous as to time.

If you know, if you understand the question and you know the answer, that's fine.

THE WITNESS: I think some people would characterize it as such, but not everyone.

BY MR. PIUZE:

Q What about you?

A I think I personally would characterize it as part of his persona.

Q Okay. Roosevelt was -- Franklin Roosevelt was in a wheelchair, wasn't he?

A Some of the time.

Q Most of the time?

MR. STOEVER, JR.: Objection. Calls for speculation. Asked and answered.

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THE WITNESS: I don't know that.
BY MR. PIUZE:
Q Well, let's hear about what you do know.
Do you know why he was in a wheelchair?
A He had polio.
Q And when did he have polio?
A He contacted it about 1921.
Q Before he was president of the United States what was his political office?
A Governor of New York.
Q When he was in New York, was he in a wheelchair?
A Part of the time.
Q When you say "part of the time," see, I'm not thinking about when he's asleep. To the best of your knowledge, he was not mobile without a wheelchair at all times when he was President of the United States, isn't that true?
A That's true. That's true. My reference was to knowing that he was moved from his wheelchair to his desk and public work was done without him in the wheelchair, yes.
Q Which is where these questions are going. The American populace didn't know that their president was in a wheelchair, correct?

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A I don't believe that's correct.
Q What do you believe that was correct?
A I believe it was not emphasized, but it was not a secret.
Q The press did not report on the fact that he was in a wheelchair, did he?
MR. STOEVER, JR.: Objection. Calls for speculation.
MR. PIUZE: What are you talking about? This guy is an American Historian.
MR. STOEVER, JR.: If he knows what all the press reports were about Franklin Roosevelt during the 15 years that he was president of United States, that's fine.
MR. PIUZE: I don't think it was that long.
MR. STOEVER, JR.: I think -- I thought it was four terms, minus a year, but maybe I'm mistaken.
THE WITNESS: He died in his 13th year as president.
MR. PIUZE: Thank you.
THE WITNESS: Can I hear the question again?
MR. STOEVER, JR.: Of course.
MR. PIUZE: See, the problem for me is I'm almost as old as he, so I remember a lot of people that he remembers that you don't know about.
Anyway, Mr. Stoever, do you know how many

chickens were in every pot?

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MR. STOEVER, JR.: At what time period?
MR. PIUZE: As they say in Latin, res ipsa loquiter.
MR. STOEVER, JR.: Two chickens in every pot, a car in every garage.
MR. PIUZE: How many Explorers in every garage?
MR. STOEVER, JR.: In my garage there's one.
MR. PIUZE: I can counsel you about that.
Q During Franklin Roosevelt's time as President of the United States, the press did not report to the populous that he was in a wheelchair, right?
A Generally that's correct.
Q Okay. Now, when he would give speeches sometimes he'd be giving speeches behind a podium propped up with braces, correct?
A Correct.
Q And sometimes he'd even stand from a sitting position with a little bit of unobtrusive help on the sides to maneuver him to the podium in an upright position so he could stand, right?
A Yes.
Q And the purpose of all this was so the public wouldn't know he was in a wheelchair?
A I don't agree.

Q What was the purpose?
A I don't believe that it's that the public

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didn't know, it's that the public didn't emphasize that. It was not a secret that Franklin Roosevelt suffered from polio and was not mobile.

Q You would agree that he generally was not pictured sitting in a wheelchair?

MR. STOEVER, JR.: Objection. Asked and answered.

BY MR. PIUZE:

Q Go ahead.

A Let me ask the -- how the question was phrased.

Q You generally agree that he was -- I'm sorry. You would agree that he was generally not pictured in a wheelchair?

A Yeah.

MR. STOEVER, JR.: Objection. Asked and answered.

THE WITNESS: Yes.

BY MR. PIUZE:

Q But he was generally pictured smoking cigarettes?

MR. STOEVER, JR.: Objection. That's not what he said, and I think it calls for speculation.

But if you know the answer, you can --

THE WITNESS: I don't know the answer to that question.

BY MR. PIUZE:

Q You've seen news reels of President Roosevelt, obviously?

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A Yes.
Q Have you seen any for this task that you're doing, for this task here right now?
A No.
Q It was not at the least bit uncommon for Franklin Roosevelt to be holding a lit cigarette up in the air, wasn't it?
MR. STOEVER, JR.: Objection. Calls for speculation.
THE WITNESS: He could be pictured that way.
BY MR. PIUZE:
Q You could picture that, right?
A Yes.
Q Who is older, you or Betty Bullock?
A Betty Bullock.
Q How much older is she than you?
A Three years.
Q Okay. She had three years more opportunity to picture President Roosevelt than you did and in her formative years, would you say?
MR. STOEVER, JR.: Objection. Calls for speculation. Vague and ambiguous as to "formative years."

THE WITNESS: Yeah, I don't know what Betty Bullock formulated about Franklin Roosevelt.
BY MR. PIUZE:
Q Tell me the year you were born, again.

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A 1941.
Q When Franklin D. Roosevelt died you would be one?
A No.
Q How old?
A I was four. He died April 12, 1945.
Q Where?
A In Warm Springs, Georgia.
Q In whose company?
A Uh, the company of a woman friend.
Q Lucy Mercer?
A Yes.
Q You don't remember Roosevelt being alive, do you?
A No.
Q Does Betty Bullock?
A I don't know.
Q Did Betty Bullock see pictures of the President of the United States smoking cigarettes all the time?
MR. STOEVER, JR.: Objection. Vague and ambiguous. President of United States? Do you mean Roosevelt?

BY MR. PIUZE:
Q Yes.
A I don't know.
Q Why not?
A I've come across no evidence that would tell

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me.
Q Did she go to the movies in North Dakota?
MR. STOEVER, JR.: Objection. I don't think that she was living in North Dakota. I think she was living in South Dakota. Assuming facts not in evidence.
BY MR. PIUZE:
Q Did she go to the movies when she was living in South Dakota?
A I don't know.
Q Why not?
A I haven't seen evidence on that.
Q Part of the thing with movies back when you were a kid is there would be news reels as part of movies, right?
A Yes.
Q And the news reels would have to do with supposed current events?
A Yes.
Q Current events in those times were defined differently than in this day of instantaneous worldwide

knowledge, right?
A Yes.
Q And current events from the news reels that you can personally remember included seeing political pictures, such as the President of the United States featured in them, right?

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MR. STOEVER, JR.: Objection. Vague and ambiguous. Do you mean Franklin Roosevelt, or any President of the United States?
BY MR. PIUZE:
Q So far, any president.
A I don't actually remember seeing the President of United States in news reels.
Q Who do you remember?
A Who? A variety of flyers and variety of people, but who really thinks a lot about who they see in news reels.
Q This was called Movietown News, wasn't it?
A That was one news service.
Q Who was the announcer, do you know?
A No.
Q Did Harry Truman smoke cigarettes?
A No.
Q Anything? Did he smoke anything?
A I don't know.

Q Okay. Was Eisenhower pictured smoking cigarettes as president?
A I believe at times.
Q Under what types of circumstances?
A I just can't recall.
Q Did Nixon smoke cigarettes?
A I don't believe so.

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Q Did Johnson smoke cigarettes?
A Yes.
Q Did Kennedy, John F. Kennedy smoke cigarettes?
A Sometimes.
Q Was he pictured smoking cigarettes?
A No. Not commonly, I should say.
Q Do you know why not?
MR. STOEVER, JR.: Objection. Calls for speculation.
But, if you know.
THE WITNESS: I don't know.
BY MR. PIUZE:
Q Was he pictured smoking cigars?
MR. STOEVER, JR.: Objection. Again, I think it calls for speculation.
If you've seen a picture, that's fine. But if you don't know, that's fine, too.
THE WITNESS: He was pictured smoking cigars.

BY MR. PIUZE:
Q He actually smoked the cigars?
MR. STOEVER, JR.: Do you have another president in mind who just chewed on them?
BY MR. PIUZE:
Q You can picture Kennedy smoking cigars, right?
A Yes.
Q Let's talk about Johnson because that got a

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rise out of you of sorts.
Tell me what you know about Johnson's cigarette smoking, please. We're talking President Linden B. Johnson.
A Linden Johnson was a heavy smoker and gave up smoking after suffering a heart attack in, I believe it was 1956.
Q Okay. Was he pictured smoking cigarettes popularly?
MR. STOEVER, JR.: Objection. Do you mean as president of the United States?
MR. PIUZE: Well, apparently not.
MR. STOEVER, JR.: Well, objection to the question as vague and ambiguous as to time.
If you understand the question, you can answer.
BY MR. PIUZE:
Q Well, some time after he won his landslide election in Texas and prior to his heart attack was the --

MR. STOEVER, JR.: Objection. Which landslide victory in Texas are we talking about?
MR. PIUZE: There's only one as far as Linden Johnson is concerned, historically speaking.
Q Right?
A Yes.
Q What's the answer?
A What's the question?
Q After he became a U.S. Senator was he pictured

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smoking cigarettes?
A Uh, probably, but I don't recall specifically seeing pictures of his smoking.
Q Was he a majority leader when he had that heart attack?
A Yes.
Q He had a high public exposure as majority leader, correct?
A Yes.
Q And at the time that he was majority leader he was smoking a lot of cigarettes, wasn't he?
A Yes.
Q High public exposure includes on the television news, right?
MR. STOEVER, JR.: Objection. Calls for speculation.

THE WITNESS: When?
BY MR. PIUZE:
Q At that time.
A In 1956?
Q Mid-fifties, I'd say, yeah.
A To some degree.
Q Who was his biographer? Did he share a biographer with Roosevelt?
A Linden's biographer is Robert Dallick, and Robert Dallick wrote about Franklin Roosevelt. And the

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other is Robert Carole.
Q Is there a woman who wrote about Roosevelt?
A Doris Kerns Goodwin.
Q So I guess we're on to Nixon. Did he smoke cigarettes?
A I don't think so.
Q Ford?
A I don't know. I don't think so, but I don't know.
Q Reagan?
A No, I don't believe so.
Q The elder Bush?
MR. STOEVER, JR.: Let me note an objection. Did you mean during the time these men were president or any time during their lives?

BY MR. PIUZE:
Q Well, I didn't specify, but let's just say during the time they were president.
A George Bush, Sr.?
Q Yes.
A I don't think so.
Q Before Reagan was president he did smoke, didn't he?
A I don't know that.
Q Didn't he, didn't Ronald Reagan pitch cigarettes for the tobacco industry?

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A Yes.
Q What kind of cigarettes?
A I don't recall.
Q How was it that you recall that Ronald Reagan used to be a pitch man on television for the tobacco industry?
MR. STOEVER, JR.: Objection. Vague and ambiguous as to "tobacco industry."
BY MR. PIUZE:
Q You know, the devil, the cartel.
A Could I rehear the question?
Q The people that trade a half million lives a year for five million dollars a year, the people who pay you, the tobacco industry.

MR. STOEVER, JR.: I'll object to the speech by counsel as being both unnecessary and argumentative.
MR. PIUZE: And unfortunately true.
Are you forgetting the truth?
MR. STOEVER, JR.: I'm not sure that it's true. I'm sure that's counsel's position.
THE WITNESS: Could I hear the question?
MR. PIUZE: Sure.
Ms. Reporter, this is your time.
(Whereupon, the record was read as follows:
"Q How was it that you believe that Ronald Reagan used to be a pitch man on television

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for the tobacco industry?")
MR. STOEVER, JR.: I just want to note my objections again as vague and ambiguous; calls for speculation.
THE WITNESS: I don't know that he was a "pitch man," quote, unquote, on television for cigarettes.
BY MR. PIUZE:
Q Where do you know he was pitching cigarettes?
A I believe I've seen -- I know I've seen a print add, print advertisement with Ronald Reagan in the advertisement.
Q In Life magazine?
A I don't know.
Q Okay. Where did you grow up?

A In California.
Q Do you know who Edward R. Morrow, M-o-r-r-o-w, is?
A Yes.
Q Who?
A One of the icons of American television broadcasting. He's with CBS now.
Q Those of us in doubt of the icon, explain what you mean.
A Really a leader who developed the field of contemporary news coverage on both radio and television.
Q The revered father of television news? How's that?

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A Some would say that.
Q Edward R. Morrow died of what?
A I believe lung cancer.
Q Edward Morrow was a heavy smoker?
MR. STOEVER, JR.: Objection. Vague and ambiguous, "heavy smoker."
If you understand the question --
THE WITNESS: I believe he was.
BY MR. PIUZE:
Q Why do you believe that he was?
A I've read that he was a heavy smoker.
Q Can you picture Edward R. Morrow on television?

A Yes.
Q What shows did he have?
A I can picture him in two shows: See It Now and Person to Person.
Q Which came first?
A I don't know.
Q Edward R. Morrow was always smoking when he gained public recognition at CBS --
A Yes.
Q -- Columbia Broadcasting Systems?
A Yes.
Q That was far and away the dominant network at the time that Edward R. Morrow was in prominence, correct?
A Yes.

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MR. STOEVER, JR.: Objection. Vague and ambiguous as to "prominence."
Go ahead, if you understand.
THE WITNESS: Certainly.
BY MR. PIUZE:
Q The Tiffany of networks now?
MR. STOEVER, JR.: Objection. Vague and ambiguous.
But if you understand.
THE WITNESS: Yes.
BY MR. PIUZE:
Q Well, it was literally called the Tiffany

network?
A Yes, it was.
Q Edward R. Morrow did what on CBS? What was going on in that program?
A It was an investigative news highway similar to 60 Minutes today.
Q Did he smoke on camera?
A Yes.
Q Was he usually smoking on camera?
MR. STOEVER, JR.: Objection. Calls for speculation.
If you know.
THE WITNESS: I don't know about that.
BY MR. PIUZE:
Q Was he virtually always smoking on camera?

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MR. STOEVER, JR.: Same objection. Calls for speculation.

If you know.

THE WITNESS: I don't understand.

BY MR. PIUZE:

Q Can you picture him not smoking on camera on this show?

A I believe I can.

Q Do you have some version of See It Now here?

A Yes, I do.

Q Why?

A In 1955, back to back weeks Edward R. Morrow addressed the smoking and health issue in 1955 on CNN.

Q Was he smoking when he addressed the smoking and health issue?

A Certainly at least part of the time.

Q Because you could see the smoke?

A Because I could see the cigarette, I believe.

Q You mean you could literally watch him smoking while this show went on?

A For part of the time, I believe.

Q What did he say? What was the bottom line?

A What did he say about what?

Q Smoking and health, in these two shows.

A He dealt with the growing national interest in the issue of the link between smoking and lung cancer that

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was then a major national issue in America.
Q What was the conclusion?
A Uh, his conclusion was that smoke, not just smokers, but Americans need to realize that there are significant questions about the health risk connected with smoking.
Q What questions?
A Whether smoking causes lung cancer, most notably, among other questions.

Q So that was the question?
A It was a question of the show.
Q Was there an answer?
A The answer was that there's a risk to smokers, but there was not a conclusion along the lines of, say, the Surgeon General statements in 1957 and '59.
Q Who was on the other side of the issue from the Surgeon General in '57 and '59?
MR. STOEVER, JR.: Objection. Calls for speculation.
If you know.
THE WITNESS: It would be a variety of people.
BY MR. PIUZE:
Q Such as?
A There may be -- I better -- I want to clarify what the Surgeon General was saying. The Surgeon General, Leroy Burney, essentially said there was a causal link

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between cigarette smoking and lung cancer.
Q Okay.
A And on the other side, the tobacco industry would have -- not would have, did -- did state that they thought more research should be done before any final conclusion could be drawn.
Q When is the last time that the tobacco industry said more research should be done before a final conclusion

could be determined?
MR. STOEVER, JR.: I'm going to object as vague and ambiguous. I don't understand what you mean by "last time."
MR. PIUZE: Just what I said. That's very straightforward.
MR. STOEVER, JR.: If you understand, you can answer.
THE WITNESS: I don't know the exact year, but I would say it would be in the 1990s.
BY MR. PIUZE:
Q Well, you know darn well it would be after the CEOs of the seven tobacco companies stood up before Congress and perjured themselves, right?
MR. STOEVER, JR.: Objection. Argumentative. Calls for speculation.
If you understand.
BY MR. PIUZE:

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Q Did you see the CEOs of the tobacco companies testify before Congress in 1993?
A ’94?
Q ’94.
A I’ve seen a tape of that, yes.
Q When did you see that?
A I think I saw it contemporaneously of the

event, and I’ve seen a tape of it since, several times, probably.
Q Why have you seen it since?
A Because it’s part of a very strong public service announcement put out by the California Department of Health Services.
Q And in the context of being shown by the Department of California Health Services, how are the seven CEOs portrayed?
A As foolish.
Q Foolish? Was this a word that was used?
A No, no. Actually, the advertisement doesn’t really -- doesn’t really comment. It doesn’t make a comment. It shows the tape and let’s the tape stand for itself.
Q And just so that I can show the jury where your mind is, after watching that tape a couple of times in the context of a California Department of Health Services advertisement, your take is that these people, the CEOs

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testifying to Congress under oath were foolish?
MR. STOEVER, JR.: Objection. That's not what he said. Misstates his prior testimony. Vague and ambiguous.
If you understand the question, you can answer.
THE WITNESS: I think that the commercial which I've

seen, that there are several reactions that someone catching it would likely have, and there would be a variety of responses maybe generally characterized more as scepticism on what they had said.
BY MR. PIUZE:
Q Was that your reaction, scepticism?
A When I saw it originally?
Q Yeah.
A I don't remember exactly, but I wouldn't be surprised if that wasn't my reaction.
Q If you don't remember, I don't want you guessing.
When you originally saw it did you think to yourself, they're lying?
A I don't know what I thought when I first saw it.
Q When is the last time you saw that tape or any tape of them testifying, in any context?
A Uh, I'd have a hard time placing that, but generally within the last year.

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Q Was it in regard to this research project?
A Yes.
Q Who provided the tape to you?
A I believe Arnold & Porter.
Q Where is the tape?

A It's in one of these boxes or -- actually on the table by the boxes, I would think.
Q And the tape that we're talking about isn't the original testimony, the tape that we're talking about is the commercials by the Department of Health Services?
A Say that again.
Q You've told me that you've seen the CEOs testifying in two different contexts. One of which was contemporaneous, the other which was as part of a public service presentation by the California Department of Health Services.
Am I right now so far?
A Correct.
Q Which is on the tape that is on the table?
A The public service announcement by the California Department of Health Services.
Q Did you see that when it actually aired?
A Yes.
Q What was your personal reaction then?
MR. STOEVER, JR.: Objection. Asked and answered.
BY MR. PIUZE:

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Q Scepticism, foolish lies, any of the above?
A Scepticism.
Q Scepticism again.
And what about when you saw it more recently in

the context of this litigation? What was your personal reaction?
MR. STOEVER, JR.: Objection. Asked and answered.
THE WITNESS: I believe, similarly, scepticism.
BY MR. PIUZE:
Q Would you, as you used the world, define scepticism, please.
A Lack of credibility.
Q You didn't believe them?
A Didn't seem credible, yeah.
Q Well, I'm asking, you did not believe them?
A No.
Q And back in 1994 when you saw the contemporaneous testimony before Congress you did not believe them?
A I don't remember when I saw it in 1994.
Q You believe that the Chief Executive Officer of Philip Morris was lying to the U.S. Congress?
MR. STOEVER, JR.: Objection. Asked and answered. He already said he didn't believe them. It's vague and ambiguous.
MR. PIUZE: Go ahead.

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THE WITNESS: I don't know if he was lying. I don't know.
///

BY MR. PIUZE:
Q Well, appreciating that you don't know for a 100 percent certainty, and I'll just remind you that the tobacco industry still maintains they don't know for a 100 percent certainty that tobacco causes lung cancer, and keeping in mind that rarely do we know anything for 100 percent certainty, did you believe that they were purposely lying?
MR. STOEVER, JR.: Objection. Argumentative. Calls for speculation. Lacks foundation. I think it's been asked and answered.
THE WITNESS: No, that wouldn't be my reaction.
MR. PIUZE: Fine. Excellent.
Q Did you believe that the CEOs, when they testified under oath to the Congress -- by the way, do you remember what they testified to, bottom line?
A I believe so.
Q What was it?
A Uh, that cigarette smoking was not addictive and that it was not proven that there was a causal link between cigarette smoking and lung cancer, or perhaps cancer, more generally.
Q You didn't believe their conclusions, but you

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didn't believe they were lying purposely; is that a fair statement?

MR. STOEVER, JR.: Objection. It's been asked and answered. He said he didn't remember what he believed when he saw it.

If you have a different recollection now, go ahead.

THE WITNESS: Can I hear the question?

MR. PIUZE: Ms. Reporter, read it back.

By the way, Mr. Stoever, I think you're misquoting the record.

(Whereupon, the record was read as follows:

"Q You didn't believe their conclusions, but you didn't believe they were lying purposely; is that a fair statement?")

THE WITNESS: I don't know their motivation for what they said. I did not believe their conclusions.

BY MR. PIUZE:

Q Right. But you did not believe they were lying purposely?

A I don't know.

Q Okay. Have you ever heard of the Frank statement?

A Yes.

Q How?

A The Frank statement was an advertisement by the

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tobacco industry exclusively in the early days of 1954.

Q How did you hear about it?
A I read about it in a secondary source.
Q In your research for this project?
A Yes.
Q Do you recall that being published?
A Yes, it was published.
Q Do you recall it --
A Do I recall it?
Q -- in 1954? In 1954 you're probably around 12 or 13 years of age. Do you recall it being published?
A No.
Q By the way, what month were you born?
A May.
Q So you were 12 when it was published, right?
A Yes.
Q Have you ever heard of the Ropper Proposal, R-o-p-p-e-r?
A No.
Q If I suggested to you -- excuse me. Do you know what TIRC is, T-I-R-C?
A Yes.
Q What is it?
A Tobacco Industry Research Committee.
Q Counsel.
A I stand corrected.

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MR. STOEVER, JR.: Is this a question?
THE WITNESS: I thought it was Committee. It could be Counsel.
BY MR. PIUZE:
Q Whatever you say. I don't know at the moment. When was that founded?
A Just a few weeks before the Frank statement in December of '93.
Q What was it?
A It was a trade association of the major tobacco producers in America to finance tobacco research, tobacco and health research.
Q Was that its only goal?
A To my knowledge, that was the basic goal.
Q Were there any other goals of which you're aware?
A Not that I recall now, no.
Q All right. How long did that organization stay in business?
A Uh, it changed. It changed its name after ten years, so stayed in business as the TIRC was ten years, but the successor -- it wasn't a successor -- an organization. The same organization went under a shorter name that counsel of tobacco research I'm not sure of the exact name.

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Q CTR?
A CTR.
Q Was the successor organization to the what?
A TIRC.
Q TIRC became the CTR?
A Yes.
Q From roughly 1964 until when?
A I'm not sure until when.
Q Does the CTR exist?
A I don't believe so.
Q Do you know why it doesn't exist?
A I don't recall.
Q Do you know approximately when it went out of existence?
A No, I don't.
Q Do you know if there is any CTR money being spent to fund your efforts here?
A I don't know.
Q Has anyone ever told you that the CTR and its predecessor the TIRC -- by the way, Philip Morris was a member of both of these, right?
A I believe so.
Q One of their goals was to purposely create doubt about the health risk for American smokers?
A I've read that it's been characterized as

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such.
Q Where have you read that?
A I can't recall exactly. Maybe newspaper articles, maybe magazine articles.
Q When?
A I don't -- when in terms of when the materials were written?
Q When in terms of when the newspaper articles or magazine articles were written.
A I can't recall specifically.
Q Well, specifically was it after last year's Boeken trial or was it prior to it?
A I just don't know. Sorry.
Q And wherever and whenever it was that you've heard it characterized that way, who was characterizing it that way? Who was reported to have characterized one of the goals of the Umbrella organization, of which Philip Morris was a member, as purposely creating doubt about the health risks of smoking for American smokers?
MR. STOEVER, JR.: Objection. Assumes facts not in evidence. Vague and ambiguous.
Do you understand the question?
THE WITNESS: I'm not sure of any of the parties, frankly.
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BY MR. PIUZE:
Q Who characterized it that way? You've said you read it. You read characterizations of the goals of the TIRC or CTR as purposely creating doubt about the health risks caused by smoking. Who characterized it that way?
MR. STOEVER, JR.: Objection. Asked and answered.
THE WITNESS: I'm not sure exactly who did.
BY MR. PIUZE:
Q Tobacco industry, outsiders? Can you limit it to that?
MR. STOEVER, JR.: Objection as vague and ambiguous.
THE WITNESS: No. I'm not sure. I'm not sure what that means.
BY MR. PIUZE:
Q Well, it could be members of the Public Health Committee saying things like that. It can be people who happen to be on a certain island on a certain day just shooting the breeze. And what I'm suggesting to you is could it be people within the tobacco industry --
MR. STOEVER, JR.: Objection.
BY MR. PIUZE:
Q -- who said that, what you said, in characterization?
MR. STOEVER, JR.: Objection. Asked and answered. He already said he doesn't remember.

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THE WITNESS: I don't know. I don't know.
BY MR. PIUZE:
Q Okay. Has anyone ever told you that the tobacco industry itself purposely set out over a period of time, starting around 1954, to purposely create doubt about the health risks of smoking cigarettes in America?
MR. STOEVER, JR.: Objection. I think you've already asked this question, and it's vague and ambiguous. You mean about anything other than what he's already testified about?
BY MR. PIUZE:
Q No. I mean exactly what I said.
MR. STOEVER, JR.: Objection as vague and ambiguous. I believe it's been asked and answered.
THE WITNESS: Could you repeat the question?
MR. PIUZE: The request I will give to Ms. Reporter is every time you read back, please put in the question right there so we get a nice clean transcript.
MR. STOEVER, JR.: And please repeat the objection, too, so the record is complete.
(Whereupon, the record was read as follows:
"Q Okay. Has anyone ever told you that the tobacco industry itself purposely set out over a period of time, starting around 1954, to purposely create doubt about the health risks of smoking cigarettes in

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America?
"MR. STOEVER, JR.: Objection. I think you've already asked this question, and it's vague and ambiguous. You mean about anything other than what he's already testified about.")
THE WITNESS: That's a very long question. Could I hear the first part of the question again?
(Whereupon, the record was read as follows:
"Q Okay. Has anyone ever told you that the tobacco industry itself purposely set out over a period of time, starting around 1954, to purposely create doubt about the health risks of smoking cigarettes in America?
"MR. STOEVER, JR.: Objection. I think you've already asked this question, and it's vague and ambiguous. You mean about anything other than what he's already testified about.")
THE WITNESS: I have read those characterizations, but I'm -- I don't recall exactly by whom and when.
BY MR. PIUZE:
Q Okay. Have you looked into that?
A Looked into it?
Q Yeah.
A In the general research of the materials I

think I've looked into the general subject.

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Q You have? How have you done that?
A Reading materials, whether or not newspapers, magazines, secondary sources, whatever I've look at, in general, I would be open to looking for and evaluating those characterizations.
Q Did you come to any conclusions?
A On this particular issue of the TIRC?
Q On the issue whether or not the tobacco industry purposely set out to create doubt about the health risks of smoking in America, starting around 1954?
A I've never specifically studied the tobacco industry itself and its actions. My focus has been on public awareness issues and smoking and health issues.
Q Is there any reason you haven't studied the other part?
A The tobacco industry motivation and documentation?
Q No. Whether or not the tobacco industry purposely tried to create doubt about the health risks of smoking in America, starting around 1954.
A But I don't know the answer. I don't have an -- I don't have an answer for that question.
Q Right. But I'm asking is there any reason that you haven't sought an answer for that question?

A Again, I believe that my research is focused on public awareness issues, what the public knew.

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Q Right. Is that the only reason?
A Yes.
MR. STOEVER, JR.: Objection. It's vague and ambiguous.
MR. PIUZE: Okay.
Q Did you understand that last question, sir?
A The last question was?
Q The reason you just gave is the only reason why you haven't studied about whether the tobacco industry purposely tried to create doubt about the health risks of smoking in America.
A Yes.
Q Okay. If the tobacco industry had been successful, do you have any idea what role that would have played as far as public perceptions of smoking and health in America?
MR. STOEVER, JR.: Objection. Vague and ambiguous as to "successful." Assumes facts not in evidence. Calls for speculation.
THE WITNESS: Could I hear the question?
MR. STOEVER, JR.: And same objections.
(Whereupon, the record was read as follows:
"Q Okay. If the tobacco industry had been

successful, do you have any idea what role that would have played as far as public perceptions of smoking and health in America?

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"MR. STOEVER, JR.: Objection. Vague and ambiguous as to successful. Assumes facts not in evidence. Calls for speculation.")

THE WITNESS: No, I don't have a formulated response. I'm not quite sure what if they were successful entails.

BY MR. PIUZE:

Q Creating doubt. That's what it entails. So does your answer stand?

A Let me hear the entire question, please.

(Whereupon, the record was read as follows:

"Q Okay. If the tobacco industry had been successful, do you have any idea what role that would have played as far as public perceptions of smoking and health in America?

"MR. STOEVER: Objection. Vague and ambiguous as to successful. Assumes facts not in evidence. Calls for speculation.")

THE WITNESS: No.

BY MR. PIUZE:

Q Fine.

In 1984 there was a presentation to the

United States Congress by representatives of the tobacco industry having to do with smoking and health.

Are you aware of this fact?

A Did I hear this correctly, 1984?

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Q Yes, sir.
A I don't recall such a presentation.
Q Okay. Let's just get a little bit about you here.
Have you lived outside of the United States?
A Briefly.
Q Where?
A England.
Q When?
A Uh, eight separate occasions.
Q When?
A 1987, 1988, uh, 1990, 1991, 1995, 1997, and very briefly in 1999. And, uh, part of this spring.
Q What were the lengths of time? You don't have to go through each and every one. Just give me highs and lows.
A Generally ten weeks.
Q Why?
A I teach in my university's overseas program in London.
Q Are there any other universities or colleges

associated with that program?
A No. We have a specific program.
Q Aside from those trips, have you lived outside of the State of California?
A No, except very briefly.

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Q Okay. Now, let's go back to the Washington, D.C., material repository/depository.
How much time did you spend there?
A When?
Q Total.
A All the Washington archives I've worked at or --
Q No. Purvis' personal.
A Johnson, Tyler, Purvis' archive?
Q Yes.
A I believe twice I worked at the archive. And I would estimate two to three days each time.
Q Alone?
A Uh, on one occasion I was -- on one occasion I may have been alone, but I don't really recall.
Q And on the other occasion?
A It would have been with some of the aforementioned historians that we have spoken of: Larry Engelmann, and Lisa Cobbs-Hoffman was coming into Washington the day I was leaving, and that's the day we had

lunch. I'm not sure whether we worked together at the archive.
Q So you're researching in the archives at the same time?
MR. STOEVER, JR.: Objection. Vague and ambiguous.
THE WITNESS: No.

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BY MR. PIUZE:
Q No?
A No. Larry Engelmann and I were, yes.
Q What was he looking for?
A I don't know.
Q What were you looking for?
A Uh, among -- I'm not sure I can recall everything. I remember looking at magazine collections, uh, some television programing, and that's all right now. That's all I can think of, specifically.
Q What magazine collections?
A I really can't recall all of the magazines that I looked at.
Q Do you recall the ones you can recall?
A I believe I looked at Life there at one time. I know I looked at Life there one time.
Q Starting when?
A Uh, probably that would have been in maybe early -- maybe early 2001.

Q Excuse me. Bad question; bad answer; bad synapse. But what was the span of the Life magazines?
A I'm sorry?
Q Don't be sorry. Like I said, I'm taking partial and full responsibility for that. Let's have a clean question, Michael.
What was the span of years of the Life

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magazines that you looked at?
A I think everything since the end of the second world war would be likely.
Q Up until?
A Life went out of -- stopped publication in the more recent decade, and I don't remember exactly when.
Q Did it have a rebirth?
A I think it did.
Q Have you seen the rebirth issues?
A Life magazine exists now? I'm not aware of that.
Q Well, it existed a couple of years ago, I'm pretty sure.
Are you aware of that?
A No.
Q Let's put it this way so I don't unnecessarily fish. Would you think that the collection of Lifes that you saw stopped when Life's first life stopped?

A I just don't recall.
Q Okay. So that's one magazine. Tell me another magazine.
A Newsweek.
Q Okay. Over what span of time?
A Over many years, but I don't remember exactly how many.
Q Let's stay with Life. Were they somehow

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presented in such a way that you could punch in key words and have stuff come up to you?
A No.
Q Had to do it the old fashion way and turn page by page by page?
A Yes.
Q Did you do that?
A Yes.
Q Starting around the end of World War II, and ending where you ended?
A Yes.
Q More than three decades worth of stuff?
A I'm not sure. I reviewed all three decades.
Q I have a feeling this Life was being published during 1990s, so it's more like four decades. How far are you sure that you went?
A I'm not so sure there was a cut-off point.

Maybe it was more selective with each of these magazines.
Q How did you select, if you selected, as opposed to having Purvis or Taylor or someone select for you?
A I don't recall the exact methodology. I think a lot of it would depend how much time I had, what kind of progress I was making, whether I would -- I would do more spot checks.
Q Did the lawyers have paperclips or Post-its on the pages?

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A No.
Q Did the lawyers present you with certain volumes?
A No.
Q Aside from Life and Newsweek, what else?
A Time.
Q Okay. What span of time for Time?
A Again, I can't tell you exactly, but over a long period of years.
Q What other magazines?
A Nothing that I can recall now.
Q No Reader's Digests?
A I don't think I did look at Reader's Digest there.
Q Did you ever read Reader's Digest when you were a kid?

A Yes.
Q Have you ever read Reader's Digest at all, other than for research projects?
A No.
Q Do you have any understanding of where Reader's Digest was on the spectrum of pro-smoking or anti-smoking?
A Yes.
Q Where?
A Strongly cautionary on the health risks of

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smoking in that early date.
Q They were the leaders of the anti-smoking bandwagon, as far as smoking, right?
A They were certainly one of the leaders.
Q Who else do you think? What other publications do you think that could stand next to Reader's Digest as far as anti-smoking vehements of the articles, if any?
MR. STOEVER, JR.: Objection. Calls for speculation.
THE WITNESS: There is a journal in California published called The Shield that was almost exclusively devoted to the anti-smoking.
BY MR. PIUZE:
Q It was not a popular publication?
A No, it was not a popular publication.

Q As far as popular publications are concerned I could tell you, and would you agree, that there was no other publication for popular expression of anti-smoking as the Reader's Digest, correct?
A That may be correct, but there were other magazines that covered the issue.
Q All right. Do you know why the Reader's Digest was anti-smoking to the extent it was?
A I don't know.
Q Okay. How do you know about The Shield?
A I've read some copies of The Shield.

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Q But how did you even know it existed, for openers? How did you come across it?
A I first came across James Walton, Reverend James Walton, who wrote The Shield, I believe in a second -- it may have been -- it's funny. I think it may have been in Cassandra Tate's secondary book on, secondary source book on smoking, history of smoking.
Q Before Philip Morris started paying you to do your project, you never heard of The Shield, right?
A No.
Q Is that right?
A That is correct. Sorry.
Q Okay. I bet you know that the Seventh Day Adventist Church was strongly anti-smoking?

A Yes.
Q Did you know that before Philip Morris started paying you to do your research?
A I think I may have, yes.
Q How did you know that?
A I don't know how, but I believe I knew that.
Q Do you know where the Seventh Day Adventist church is headquartered?
A State or national?
Q Both. State first and national second.
A Uh, it's in Southern California, I think, maybe around Midland, but I don't know the exact location.

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Q Is that state or national or both?
A I don't know.
Q Okay. Back to the library.
Aside from the magazines that you've mentioned to me which you perused -- is perused a good word or is that too --
A I think I did more than peruse them.
Q Why don't you tell us now so I can read it to the jury.
A I think I researched the magazines that I looked at.
Q When you saw stuff that you liked, did you make copies?

A Yes.
Q Right there on the spot?
A Uh, I asked an assistant in the office to make copies for me, usually at the end of each day.
Q Whose assistant?
A Uh, you know, I don't know the names and I don't know the names of the positions, but there were staff available to help to assist me with copying.
Q That worked for the law firm?
A Yes, I believe so.
Q So you didn't bring anybody with you?
A No.
Q The other historians, to the best of your

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knowledge, didn't bring anyone with them?
A No.
Q Aside from the three students to whom you've alluded, two in Irvine, one up in San Luis Obispo --
A San Luis Obispo.
Q -- were there other research assistants helping you at any point along the way?
A Helping me along the way? Let me think.
No, not to my recollection.
Q Okay. So specifically the law firm that included Tyler & Purvis was not providing you with research assistants?

A No.
Q Did you ever go to the library of Congress while you were in Washington?
A Yes.
Q Why?
A For a variety of sources I wanted to check, including state codes, secondary sources. I can't even tell you all the sources I was interested in, but I spent probably the equivalent of a day to a day and a half at the library of Congress in the last year.
Q What state codes?
A The state laws.
Q Which state?
A California. That's where I actually looked at

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the California state codes.
Q Couldn't you get those here in California?
A I could get them, but I also looked at the state codes for South Dakota.
Q You mean you looked at the state codes of South Dakota?
A Of South Dakota.
Q In Washington, D.C.?
A Yes.
Q What did you find?
A Uh, there were not a lot of state codes on

smoking and health.
Q Well, what were they?
A You know, I don't recall now.
Q Were there any in South Dakota?
A I believe there were, but I believe they were minimal.
Q Was there an age limit for smoking in South Dakota?
A I don't know. I don't recall.
Q All right. So were you surprised at how few laws there were in California and South Dakota about smoking and health?
A No.
Q Why not?
A For California, there were many laws.

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Q Oh, there were many?
A In California.
Q I thought you said there were minimal?
A I meant to say there were minimal laws for South Dakota, not for California.
Q Okay. What was the earliest law you saw in California for smoking?
A You know I don't recall.
Q Was it before Ms. Bullock was born?
A I don't recall.

Q Was it before you were born?
A I just don't know.
Q Was it before 1950?
A I don't know.
Q Before 1960?
A I don't know.
Q All right. Now, did you tell me that you looked at county codes? Did I hear that?
A County ordinances or county codes. I'm not sure of the exact terminology.
Q Neither am I. There's no pride of authorship. What states or counties?
A California.
Q Not South Dakota?
A No.
Q Which counties in California?

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A Uh, really all the counties in California I've examined.
Q How many counties are there in California?
A 59, I believe.
Q And you've gone through 59 different county's codes or ordinances?
A I didn't approach it in that way. The question is assuming I did, but I studied the development of county ordinances on smoking and health issues. For example,

through the archive of the Americans for Non-smoker's Rights archive at University of California at San Francisco.
Q Yeah.
A And I examined ordinances. I found a lot of material at the National Library of Medicine in Bethesda, Maryland, so I think I need to amend my earlier comment that I have looked at the issue of anti-smoking ordinances nationally, as well as in California.
Q For my purposes today, I'm only right now interested in South Dakota and California.
Did you come upon material Back East in Bethesda or elsewhere that dealt with South Dakota?
A No.
Q That gave you an insight in South Dakota?
A On ordinances, no.
Q As far as the ordinances in California are

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concerned, do you have any comment about those ordinances?
MR. STOEVER, JR.: Let me note an objection. Vague and ambiguous. Calls for speculation.
THE WITNESS: Could you repeat the question.
BY MR. PIUZE:
Q Did your research into national ordinances give you any insight -- I already asked that. I withdraw that,.
Ms. Reporter. I'm challenged. Read the last

question.
(Whereupon, the record was read as follows:
"Q As far as the ordinances in California are concerned, do you have any comment about those ordinances?")
BY MR. PIUZE:
Q You do know what res ipsa loquitur means?
A I'm not so sure. I think I do. I did at one time. I'm not sure that I do right now.
Q Because I saw you smile earlier. I'm interested in California ordinances county wide, what opinions you have of the California ordinances county wide.
A Uh, you know, I have --
MR. STOEVER, JR.: Let me note an objection. When you say "county wide," are you speaking about any particular county or state wide as to all counties?
MR. PIUZE: State wide, 59 counties state wide.

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THE WITNESS: Could I ask for a very quick break just so that I can use the restroom?
MR. STOEVER, JR.: Sure. Go ahead.
(Brief recess.)
BY MR. PIUZE:
Q Have you had your break?
A Yes.

Q Are you refreshed?
A Yes.
Q You told me that you had looked at ordinances from some or all of the 59 California counties, correct?
A Partially correct. Maybe I was unclear. I studied ordinances for smoking and health in California, but there would be some counties that would never be a party, were never a party to initiating such an ordinance, so -- I don’t know anything about Alpine County, for example.
Q Right. So how many counties initiated ordinances?
A When?
Q Ever.
A I’m not sure of the exact number. I’m not sure of the exact number.
Q Okay. How many counties did you look at, all 59?
A Again, I would be using archives that would be

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dealing with county and city ordinances. It wouldn't have been divided that way. I'm not sure of how many counties. If they passed an ordinance I would have looked at the ordinance and looked at all the materials in the archives.

Q Did more than half of the counties pass ordinances?

A No, not county wide.

Q Not county wide?

A Right.

Q How many counties has Betty Bullock lived in, in California?

A Two, to the best of my knowledge.

Q Which?

A Los Angeles and Orange County.

Q Did you look at those county ordinances?

A Yes.

Q What did you find? Have you compiled them, for instance?

A I mean, I've studied them, but I don't have a chart that I've produced.

Q Okay.

A They both had strong smoking, anti-smoking ordinances, beginning in the 1970's.

Q Okay. What does that mean, strong anti-smoking ordinances?

A Restrictions on smoking in public places, the

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workplace. In the case of L.A. County, the famous one in the early ’90s, in restaurants, the ban on smoking in restaurants county wide. And these were part of what would be the largely grass roots anti-tobacco movement in California that ultimately attracted the attention of

larger bodies of the State Legislator, Board of Supervisors.

Q Remember you were talking about public health, public service television broadcasting here in California that were anti-smoking?

A Yes.

Q Where did the money for that come from?

MR. STOEVER, JR.: Objection. Vague and ambiguous. You mean any of these public service broadcasts, or the one that he talked about in particular?

MR. PIUZE: No, I don’t.

THE WITNESS: Came from different sources at different times.

BY MR. PIUZE:

Q Wasn’t there an initiative passed by the voters of this state that added money per pack, which came back to anti-smoking announcements?

A Yes.

Q What was the name of the proposition? Do you remember?

A The number was Prop 99. I have forgotten the

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exact ballot.
Q That's good. 99 is good.
What year?
A 1988.

Q So 99 was a new year?
A Yes.
Q How much money was added per pack?
A 25 cents.
Q Was all that money supposed to come back in the way of public service announcements?
A No.
Q What else was the money going to be spent for?
A A variety of other diverses for the money. The largest percentage, 45 percent, went to doctors and physicians for basic medical care. 5 percent went to conservation funding. 5 percent went to research of tobacco and smoking, and 20 percent went to what is called the Health Education Fund, which is, I believe, what we are focused on.
Q Do you know the dollars that those percentages generated?
A For some of the years.
Q So tell me.
A The first year, which would have been 1989 when it went into effect, it was approximately $650 million a year overall, and approximately 20 percent would have gone

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to the Health Education Fund.
Q And because we've established you're good at math, if you know, that means how much?

MR. STOEVER, JR.: Objection. Lack of foundation.
BY MR. PIUZE:
Q It's 130 million bucks, right?
A Yes.
Q Okay. So in the first year $130 million was used to fund public health messages in this state that were basically anti-smoking?
A No.
Q Correct me.
A A portion of the Health Education Fund would go to fund anti- -- specific anti-tobacco messages, but within the Health Education account itself the money is spent in a variety of different ways.
Q So out of the 20 percent, how much went to the television advertising?
A I believe in the first year 14 million. It changes from year to year and at the determination of the Department of Health Services in Sacramento.
Q What is the most it was in a given year, the amount that went to fund television anti-smoking broadcasts?
MR. STOEVER, JR.: Objection. Vague and ambiguous. Calls for speculation.

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If you know.
THE WITNESS: The highest would be $47 million a year.
BY MR. PIUZE:
Q Is there any other state in the country that had these public service announcements in the 1980s?
MR. STOEVER, JR.: Objection. Vague and ambiguous. Calls for speculation.
THE WITNESS: I don't know.
BY MR. PIUZE:
Q Do you know what the master settlement agreement is?
A I believe that's the 1998 State Surgeon General's agreement, yes.
Q Before that agreement were there any other states, aside from California, that had these public service anti-smoking broadcasts?
MR. STOEVER, JR.: Objection. Asked and answered. Calls for speculation. He already said he didn't know.
THE WITNESS: I don't know.
BY MR. PIUZE:
Q I'm pointing out a different time period. I'm no longer in the '80s. I'm up to 1998. Are you aware of that? That's the question. I don't care what your answer is as long as you know. Do you know, all the way up to 1998, whether or not other states funded anti-smoking

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public service announcements?

A I don't know.
Q Excellent.
Tell me about -- you've told me about Los Angeles County ordinances so far, right?
A I think I spoke of one ordinance.
Q Right. Right now, based on your research, do you know how many states allow smoking in restaurants?
MR. STOEVER, JR.: Objection. Calls for speculation.
If you know.
THE WITNESS: I believe that California is the only state in which there is a state wide restaurant ban, but maybe I stand corrected. Maybe we were the first starting in 1994.
BY MR. PIUZE:
Q Okay. Well, can you name another state that does not allow smoking in restaurants?
A No, I can't.
Q Can you name another state that doesn't allow smoking in bars?
A No.
Q When did it become illegal in California to smoke in bars?
A I believe January 1998, state wide.
Q What other Los Angeles County ordinances, if

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any, do you think are significant to any opinions you're going to give in this case?
A I can't think of any at this time.
Q What Orange County ordinances, if any, do you think are significant in the opinion you're going to give in this case?
A I'm not sure of the exact number, but I believe there are three or four county wide ordinances in Orange County that could be important in the case.
Q What are they?
A Uh, they began in 1995 with a limitation of -- by the County Board of Supervisors' limitation of smoking, I believe in -- I better be cautious and not try to identify each of them in terms of the areas covered -- but essentially there were three or four ordinances starting in 1975 that banned smoking in the workplace, prison, at one time, uh, public meeting places, restaurants and retail areas, that were passed by the Orange County Board of Supervisors.
Q Okay. Where did you go to undergrad school?
A UCLA.
Q Besides UCLA and Stanford, have you gone to another university as a student?
A Yes.
Q Where?

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A UC Berkeley.
Q What years were you at UCLA?
A 19- -- I believe 1960 to 1963.
Q Could you smoke in class?
A I believe it was possible in some classes. I've actually given that some thought, and I'm not absolutely sure, but I think it was kind of an option; that in some classes it was allowed.
Q And at UC Berkeley, could you smoke dope in class?
A I was at UC Berkeley in 1964, '65, and the answer is no.
MR. STOEVER, JR.: Can we go off the record?
MR. PIUZE: Sure.
(Discussion held off the record.)
BY MR. PIUZE:
Q At UC Berkeley did people smoke, was it allowed that you could smoke in class?
A You know, I really don't recall.
Q What about at Stanford?
A No.
Q What year did it become illegal to smoke in public buildings in California?
A State wide the law was passed in 1994, and it took effect in January of 1995.

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Q What year did it become illegal to smoke in governmental buildings in California?
A That was earlier. I believe the early ’90s, perhaps 1993, but I’d better be cautious. I’m not completely sure of that date. Right around then.
Q 1993? Is that what you just said?
A Yes. Public buildings, yes.
Q What year did it become -- excuse me. I think there was a problem in there somewhere.
I’d like you to tell us what year you think it became illegal to smoke in government buildings in California?
A State government buildings?
Q Yes.
A It would be the early ’90s. 1993 sounds familiar to me, but I’m not really sure. If not 1993, very close to that.
Q A year or two doesn’t matter to me right now.
And you believe it became illegal to smoke in a non-governmental building such as this office building -- as we are right now in -- which year?
A January 1, 1995.
Q In Los Angeles County was it illegal to smoke in governmental buildings earlier?
MR. STOEVER, JR.: Let me note an objection. We’re

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differentiating between county wide and state wide ordinances?

MR. PIUZE: Yes. Just switched to Los Angeles County.

THE WITNESS: I don't know.

MR. STOEVER, JR.: Okay.

BY MR. PIUZE:

Q You're aware that Los Angeles County, it has a court system --

A Yes.

Q -- which includes court houses, correct?

A Yes.

Q Can you tell me if it was ever legal to smoke in court houses in Los Angeles County?

A I can't tell you.

Q If I were to pose to you the statement that people could and did smoke in the corridors of the court house in Los Angeles County in the last ten years, would you doubt that for a second?

A No.

MR. STOEVER, JR.: Objection. Calls for speculation.

BY MR. PIUZE:

Q Why would you not doubt that for a second?

A It very well might have been.

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Q In Los Angeles County was there an earlier ban on smoking in governmental buildings than that in the State of California?
A I don't know.
Q In Los Angeles County was there an earlier ban in smoking in non-governmental public buildings than in the State of California?
A Could I hear it once again?
(Whereupon, the record was read as follows:
"Q In Los Angeles County was there an earlier ban on smoking in non-governmental public buildings than in the State of California?")
BY MR. PIUZE:
Q In Los Angeles County was there a ban on smoking in non-governmental public buildings earlier than in the State of California?
A I don't know.
Q And you don't know about any of those issues as far as Orange County is concerned, correct?
MR. STOEVER, JR.: Objection. Misstates his earlier testimony.
THE WITNESS: There were ordinances in Orange County that began in 1975 that limited smoking in a range of areas as laws were passed.
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BY MR. PIUZE:

Q Let's go through them again.

A I'm not sure I know them exactly in terms of the dates, but they would -- I would at various times have to deal with smoking in public areas in the unincorporated areas of Orange County, which the Board of Supervisors would have more authority over. One, I know, involved no smoking in the prison system in Orange County. And there was a wider anti-smoking ordinance county wide that dealt with smoking in the workplace and, uh -- and a ban on smoking in restaurants in unincorporated areas that was also passed in Orange County.

Q So when was it illegal to smoke in restaurants?

A County wide in Orange County it was as a result of the legislation, I believe, in 1994. So probably would have been gone into effect in 1995.

Q So it followed the State of California?

A Yes.

Q Nothing earlier?

A Not county wide, but city ordinances restricted smoking.

Q In governmental buildings in Orange County there were laws down there prohibiting smoking in governmental buildings --

A Yes.

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Q -- earlier than the State of California prohibited against smoking?

MR. STOEVER, JR.: I want to know, "prohibit," when you say "prohibit," are you talking about banning or limiting to a particular area?

If you understand the question --

BY MR. PIUZE:

Q Banning it.

A I believe there was.

Q Which?

A I don’t remember now.

Q Now, what kind of city ordinances do you have in mind that are of any significance to any of your opinions in this case?

A There were city ordinances in I believe 25 of the 25 incorporated cities in Orange County. A variety of issues of particular interest to me were on the ordinances in San Juan Capistrano and Newport Beach.

Q Why?

A Why? Because this is where Betty Bullock resided at the time the ordinances were being passed, in terms of smokers.

Q When did Betty Bullock reside in Newport Beach?

A Early 1980s to 1989.

Q Where?

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A I don't recall the address.
Q All right. So from the early '80s until 1989, is that what you just said?
A I believe so.
Q What ordinances, if any, were there in Newport Beach that had to do with smoking?
A There were restrictions on smoking in public places, and there was a partial ban -- I shouldn't say partial ban -- there was a ban on restaurant smoking, an allocation of smoking and non-smoking sections in Newport Beach. There was a ban on smoking in the City Hall buildings, specific ordinance banning smoking in City Hall. All smoking.
Q When did this go into effect?
A I'm not sure of the exact year. I believe it may be the mid 1980s.
Q When was there delineation of smoking and no smoking sections in restaurants in Newport Beach?
A I believe in the mid 1980s.
Q When did it become illegal to smoke in any public building beyond just City Hall, but any governmental buildings in Newport Beach?
A I can't recall right now.

Q Are you saying there was also a ban on smoking in public non-governmental buildings in Newport Beach city ordinances?

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A I don't remember.
Q Okay. All right. So that means if you don't go to City Hall you could continue to smoke as long as you were in the right section of the building in places in Newport Beach; is that true?
MR. STOEVER, JR.: Objection. Calls for speculation.
MR. PIUZE: He's the one that did the research, so --
THE WITNESS: I just haven't looked specifically at the ordinances recently and am not familiar with the exact terms, what public buildings would be excluded.
BY MR. PIUZE:
Q How often did Betty Bullock go to City Hall during those years?
A I don't know.
Q Did the smoking, non-smoking sections of the restaurants in Newport Beach end in a complete prohibition only at the time that the State of California made a complete prohibition?
MR. STOEVER, JR.: I'm not sure I understand the question.

BY MR. PIUZE:
Q Does the State of California say you can't smoke in a restaurant?
A Yes.

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Q Did Newport Beach say that before the State of California did?
A Complete ban in a restaurant in Newport Beach?
Q Yes.
A I don't believe so.
Q Did Orange County say that before the State of California did?
A I believe so.
MR. STOEVER, JR.: Objection. Vague and ambiguous. Are you talking about a complete ban on smoking?
MR. STOEVER, JR.: Do you understand the question?
THE WITNESS: Yes. No.
BY MR. PIUZE:
Q You've seen people smoke on airplanes?
A Not lately.
Q I hope not, anyway. But back to my question. You have seen people smoke on airplanes?
A Yes.
Q And you're old enough so you remember there

wasn't even smoking and non-smoking, you could smoke on any part of the airplane you felt like smoking in?
A Yes.
Q When did it end?
A It ended in stages. In the 1970's individual

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airlines began to set up smoking and non-smoking areas, and then the CAB, Civil Aeronautics Board, I believe it's in 1973, mandated smoking and non-smoking sections. And then it also changed in stages as to whether you could smoke at all on an airline. I believe that maybe the final bills -- I know the final bills were in the late 1980s, maybe early 1990s when basically virtually 99 percent of flights would have to be non-smoking.

Q Let's stick with domestic flights, if I could. Is that on 99.9 flights that you were referring to?

A Yes.

Q Yes?

A Yes.

Q You believe that was around the early 1990s?

A Yes. Late '80s or early '90s.

Q So you believe that for something in the vicinity of about 20 years there was smoking and non-smoking sections in domestic airlines?

MR. STOEVER, JR.: Objection. Misstates his earlier testimony.

But go ahead and answer.

THE WITNESS: Yes, I believe so.

BY MR. PIUZE:

Q Did some airlines ban smoking totally on domestic flights before the government told them they had to?

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A Yes, I believe so.
Q Which?
A I don't know.
Q Just for these people whom might be exposed to this transcript a little bit, you can probably recall that you might be sitting in the non-smoking section and you'd be two feet away from someone who was smoking in the smoking section, right?
A Yes.
Q Did the United States military give tobacco products to -- like cigarettes, I'm specifically interested in cigarettes -- I'll start again.
Did the United States military give cigarettes to soldiers?
MR. STOEVER, JR.: Objection. Vague as to time.
THE WITNESS: When?
BY MR. PIUZE:
Q Let's start with just --
A Did they?

Yes.
Q So when?
A I believe first in the first world war.
Q Okay. Ending?
A I know that it was also a practice in the second world war.
Q When did it end?

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A I don't know.
Q The military was giving cigarettes to combat troops in Vietnam, weren't they?
A You know, I don't know.
Q So you let your cohorts down in San Diego do more reading than you?
MR. STOEVER, JR.: Objection. Argumentative.
THE WITNESS: I'm not sure.
BY MR. PIUZE:
Q When did the Red Cross pass out cigarettes to the armed forces?
A I don't know the specifics on that. I don't know that.
Q Edward R. Morrow, when did the one show end and the next show begin?
A I don't know.
MR. STOEVER, JR.: Objection. Vague and ambiguous. Asked and answered.

THE WITNESS: I don't think I understand. When did one show --
BY MR. PIUZE:
Q When was the first show?
MR. STOEVER, JR.: Objection. Asked and answered. I think he already testified --
THE WITNESS: Between CNN and Person to Person, I don't know.

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BY MR. PIUZE:
Q When did his program end, whichever one was the last one? How did it end?
MR. STOEVER, JR.: Objection. Vague and ambiguous.
THE WITNESS: I would say I would think when he took a government post in the Kennedy administration.
BY MR. PIUZE:
Q What was his government post?
A He had a -- he was appointed to a position by Kennedy dealing with public information overseas and.
Q USIA --
A That’s correct.
Q -- Director?
A I believe so.
Q Do you know where he lived?
MR. STOEVER, JR.: Objection. Vague and ambiguous. You mean Edward R. Morrow or John F. Kennedy?

BY MR. PIUZE:
Q Well --
A I don’t know where Edward R. Morrow lived.
Q Do you know where he was living when he died?
A No, I don’t.
Q Didn’t Edward R. Morrow get himself interviewed on television as he was dying from lung cancer?
A I didn’t -- I don’t know that.
Q Okay. Probably in San Clemente, of all

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places. Is that one of the two town ordinances that you studied, San Clemente? Is that what you told me?

A I believe I said San Juan Capistrano.

Q What about the ordinances down there? Tell me what you know about the smoking ordinances in San Juan Capistrano.

A There were a couple of them. They had the strongest restaurant ordinance restriction on smokers in restaurants of any city in Orange County until the 1994 state wide law was passed. They banned cigarette smoking and 75 percent of restaurants had to be set aside for non-smokers. Highest percent in the county.

Q 55 percent of the restaurant or 75 percent of the restaurant?

A 55 percent of a restaurant.

Q Okay.

A And there also were one or two ordinances restricting smoking in other public areas, and I'm just not -- I don't recall right now exactly what was restricted.

Q Okay. Did Edward R. Morrow act as an anchor for the news?

MR. STOEVER, JR.: Objection. Vague as to time.

THE WITNESS: I don't believe so, but I'm not sure.

BY MR. PIUZE:

Q Did CBS news take a special interest above and

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beyond that of the other, then two networks, on smoking and lung cancer for the stated reason that Edward R. Morrow, its icon, had contracted lung cancer?

MR. STOEVER, JR.: Objection. Calls for speculation.

If you know.

THE WITNESS: I don't know.

BY MR. PIUZE:

Q Did Philip Morris, as part of the TIRC or CDR seek to put pressure on CBS network not to take an anti-smoking position in the 1960s?

MR. STOEVER, JR.: Objection. Assumes facts not in evidence. Lacks foundation. Calls for speculation.

If you know, you can answer.

THE WITNESS: I don't know.

BY MR. PIUZE:

Q Ever?

MR. STOEVER, JR.: Objection. Vague and ambiguous.

BY MR. PIUZE:

Q Did Philip Morris, as part of the tobacco industry trade groups, ever put public pressure on CBS not to air anti-smoking stories?

MR. STOEVER, JR.: Objection. Lacks foundation. Assumes facts not in evidence. Calls for speculation.

You can answer.

THE WITNESS: I don't know that that is the case.

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BY MR. PIUZE:
Q Did the tobacco industry put pressure on CBS, ever, to try to influence it not to air shows that were anti-tobacco?
MR. STOEVER, JR.: Objection. Lacks foundation. Assumes facts not in evidence, and again calls for speculation.
If you know, you can answer.
THE WITNESS: I don't know.
BY MR. PIUZE:
Q Do you know who Russell Crowe is?
A Yes.
Q Do you know what The Insider is?
A I've have seen the movie The Insider.

Q Russell Crowe played the lead role?
A Yes.
Q Do you know his character's real name?
A Uh, Jeffrey Wiegant.
Q You saw that movie?
A Yes.
Q Didn't the tobacco industry back 60 Minutes down from airing the television show that was anti-tobacco in that movie?
MR. STOEVER, JR.: Objection. Assumes facts not in evidence. Lacks foundation.
But if you have a recollection, you can go

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ahead and testify.
THE WITNESS: I believe that is part of the story in the movie.
BY MR. PIUZE:
Q And don't you believe that happened?
MR. STOEVER, JR.: Again, vague and ambiguous and lacks foundation. Assumes facts not in evidence.
BY MR. PIUZE:
Q I'm trying to refresh your recollection because you told me you were unaware that the tobacco industry ever tried to put pressure on CBS not to air anti-tobacco shows, and now I'm pointing out an extremely well-known incident to you.

Does that refresh your recollection?
MR. STOEVER, JR.: Well, I disagree with the characterization of the questions and answers. The questions have been about Philip Morris. The Insider is about Brandon Williamson, and I'm not sure there is anything having to do with Philip Morris and The Insider.
MR. PIUZE: The last question wasn't about Philip Morris. It was about the tobacco industry.
MR. STOEVER, JR.: That's right. I think you're comparing apples and oranges.
MR. PIUZE: Apples and oranges?
MR. STOEVER, JR.: If you understand the question and can answer it -- again, my objection is it lacks

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foundation. Assumes facts not in evidence. Calls for speculation. I think it's vague and ambiguous.
But if you understand the question, you can answer it.
BY MR. PIUZE:
Q Go ahead.
A I'm not sure I do understand the question. The question is not -- maybe I should just ask you to maybe have the question read, the last question read.
Q No. I'll just read it all over again.
A Okay.
Q Having pointed out to you and refreshed your

recollection with the incident depicted in the movie The Insider, having to do with Mr. Wiegant and the 60 Minutes people, doesn't that refresh your recollection that the tobacco industry put pressure on CBS network not to air shows that were anti-tobacco?
MR. STOEVER, JR.: Objection. Assumes facts not in evidence. Lacks foundation. Calls for speculation. Vague and ambiguous as to the term tobacco industry. And if I didn't say it already, calls for speculation.
If you can answer --
THE WITNESS: I do understand that that is the theme of the movie, but, again, I know that the movie was a movie that met with quite a bit of controversy over its accuracy. I don't know that to be a fact.

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BY MR. PIUZE:
Q What controversy was that?
A I'm not sure I recall all the specifics, but I remember when the movie came out there were those who thought that the movie was not accurate.
Q But don't you know as a result of your research that CBS was flat out threatened with litigation if they aired that show on 60 Minutes?
A I don't know.
MR. STOEVER, JR.: Objection. Calls for speculation. Lacks foundation. Assumes facts not in

evidence. It's vague and ambiguous.
If you know, go ahead and answer.
THE WITNESS: I don't know that.
BY MR. PIUZE:
Q When that movie came out, who said it wasn't accurate?
A Actually, I remember CBS -- some of the people at CBS said it was inaccurate.
Q Who?
A I can't recall all the parties to that, but I believe Mike Wallace was one person who said that the movie was not accurate.
Q Okay. Mike Wallace was depicted in sort of a negative way in that movie, wasn't he?
A Yes.

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Q Do you doubt that the tobacco industry threatened litigation against CBS if it aired that 60 Minutes show?

MR. STOEVER, JR.: Objection. Calls for speculation. Lacks foundation. Assumes facts not in evidence. Vague and ambiguous as to the use of the term tobacco industry.

Again, I think it was Brandon Williamson that was depicted in the movie, not the tobacco industry.

///

BY MR. PIUZE:

Q Go ahead.

A I don't know.

Q Do you know when that incident occurred, specifically?

A I believe it occurred in the mid 1990s.

Q Right. And you know that Brown & Williamson and Philip Morris and R.J. Reynolds and Liggett & Meyers and others were still all members of the same tobacco industry trade group at that time, right?

MR. STOEVER, JR.: Objection. Calls for speculation.

If you know.

THE WITNESS: I believe that they were a member of the same trade associations, but I'm not sure. I'll leave it at that. I know they were a member of the same trade

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associations.
BY MR. PIUZE:
Q The CTR?
A I believe so. I'm not certain when the CTR ended, when it was disbanded.
Q And say again what CTR is?
A Counsel on Tobacco Research.
MR. PIUZE: Okay. It's 1:08 right now, according to my watch. If we're going to have a lunch break, which I

believe was your desire, why don't we do it now.
MR. STOEVER, JR.: Okay. How long do you want to have a lunch break for?
MR. PIUZE: Let's come back at 2:00 o'clock.
(Whereupon, a lunch recess was taken at 1:10 P.M., to be resumed at 2:00 P.M., with the same persons being present.)

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LOS ANGELES, CALIFORNIA;
TUESDAY, APRIL 23, 2002
2:05 p.m.

EXAMINATION (Resumed)

BY MR. PIUZE:

Q I'd like to just go back to your assignment to be sure I can understand.

Just please tell me, to the best of your recollection, exactly what Mr. Purvis told you he wanted you to do.

MR. STOEVER, JR.: Objection. Asked and answered.

THE WITNESS: Mr. Allen Purvis asked me to independently set up my own project of studying smoking and health issues in America, and public awareness of those issues, and perhaps included would be in the more recent period, since the second world war.

BY MR. PIUZE:

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Q Was that ever further modified or clarified by him?
A No, not while I was working for Johnson, Tyler & Purvis.
Q Did he ever tell you to stay away from any areas?
A No.

Q On the Bullock case who have you been taking your marching orders from?
MR. STOEVER, JR.: Objection. Vague and ambiguous. "Marching orders"?
MR. PIUZE: Not only that it ended with a provision, too.
Q On the Bullock case who on Philip Morris' side has been directing you in regard to what your assignment should be?
MR. STOEVER, JR.: Objection. Vague and ambiguous. "Directing" assumes facts not in evidence.
If you understand, you can answer.
THE WITNESS: I've been directing my own research.
BY MR. PIUZE:
Q Who has told you what to do with the Bullock case?
MR. STOEVER, JR.: Objection. Vague and ambiguous. Told him what to do? I think he already answered that he did what he wanted to do.

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MR. PIUZE: Well, that's obviously false. He's obviously not doing what he wanted to do, otherwise he'd be in Tahiti with his file not here for the deposition. Somebody told you you were to be here for the deposition, and we're going to trial on a certain day, and someone told you to be available. Who is the person who does all these

things?
MR. STOEVER, JR.: Objection. Compound. Vague and ambiguous. Argumentative.
If you understand, you can answer.
THE WITNESS: I've worked at Arnold & Porter with Tom Stoever, but I believe I really have directed my own research project. In fact, without any question.
BY MR. PIUZE:
Q Then tell me how you set up your research project in regards to Betty Bullock.
A I began by asking a question that I felt needed to be answered, which was, in California, from the 1950s on, what was the level of public awareness on smoking and health issues, and then added to that is how Betty Bullock and the history that I know of her fit into that picture, beginning primarily with 1950 and continuing to the present.
Then what I did was gather my resource materials first, by deciding which archives to use and which materials to use. I gathered them. I then have

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applied my own methodological tools, that I hope I've learned as a historian, to evaluate that material, and I've come to the conclusion as to what the answers are about smoking and health issues and public awareness in California.

Q What are the issues?

A The issues are what did the public know about the issues, or what did the public know on the risks from smoking. For example, with lung cancer it would be one of the major issues that you would look at, and when did they know it.

Q That's one. Okay. Next. Tell you what. Let's answer them as you pose them.

What did they know and when did they know it? It sounds like something someone asked Nixon.

A I believe in California by 1964 that it was common knowledge that cigarette smoking caused lung cancer, was addictive, was a difficult habit to break, and that Betty Bullock knew this was a difficult habit to break.

Q By what year?

A 1964.

And, in addition, I believe that continuing in California, more than in other states, the public was more acutely aware of smoking and health risks than in other states because of activities, both public and private initiatives of anti-smoking organizations.

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Q Those public and private initiatives started when?
A Well, they would have started back before -- in many cases, they did start before I really began to look at

the bulk of the materials in 1950, both in California and nationally. But I believe that they increased the campaign as we moved from the 1950s to the present.
Q Just state them. Lay them out right now.
What public and private initiatives occurred in California that you believe made the public awareness higher? Just do it chronologically.
A The California Department of Public Health later became known as the Department of Health Services in California was active. The --
Q No. I need dates, please. You're a historian. Let's have some dates.
A In 1950 the Department of Public Health in California was already tracking the significant incidents of cigarette smoking and lung cancer.
Q Okay.
A And as we moved through the '50s they again increased their interest in the level of public awareness and public awareness campaigns on the health risks.
Q What does it mean they increased? "They" who? Increased their what?
A The California Department of Public Health

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studied -- released studies and worked in other areas to insure that there was more public education on health issues.

Q Okay. Let's stop there.
You lived in California during that whole time?
A Yes.
Q Were you aware of the fact that the California Department of Health released a study between 1950 and 1960, at that time?
A I was aware of the results of their efforts, which was to promote more public education on health issues with cigarette smoking.
Q How were you aware of that?
A Well, I was in public schools --
Q Yes?
A -- at that time, and a major part of the campaign of the Department of Public Health in California was to increase the level of awareness in the public school curriculum, to assist in providing curriculum kits to the teachers, and providing lectures for classes, and, in general, to increase the level of awareness of smoking and health issues in public education.
Q That's got nothing to do with Betty Bullock, does it?
MR. STOEVER, JR.: Objection. Argumentative. And I think it misstates his earlier testimony.

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MR. PIUZE: Well, it may well be --
Q Betty Bullock never went to public school in

California, did she?
A No.
Q So it's got nothing to do with Betty Bullock, does it?
MR. STOEVER, JR.: Objection. Misstates his earlier testimony. Is vague and ambiguous.
BY MR. PIUZE:
Q Does it?
A I believe that it does affect Betty Bullock because she had a daughter in the public school system in California.
Q I thought you were talking about 1959, 1960. I want to take you in a chronological line. Whatever was passed out in public schools 1950 and 1960 has nothing to do with Betty Bullock, does it?
MR. STOEVER, JR.: Objection. Calls for speculation.
If you know whether it has anything to do with Betty Bullock, you can say.
THE WITNESS: I don't know if it does.
BY MR. PIUZE:
Q To the best of your knowledge, she never set foot in a public school between 1950 and 1960, right?
A I don't know that.

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Q To the best your knowledge, she did not do that, correct?
A But I don't know if she did or not.
Q All you have to do is answer my question.
MR. STOEVER, JR.: I think he's done that.
MR. PIUZE: No. I think he hasn't.
Q Just give me any fact. Give me a quarter of, an ounce, quarter of a gram, of any fact that you have that Betty Bullock set foot in a public school in California between 1950 and 1960.
MR. STOEVER, JR.: Objection. Vague and ambiguous.
MR. PIUZE: Way to go.
THE WITNESS: I don't have any evidence that she did or did not.
BY MR. PIUZE:
Q Oh. We're going chronologically, and you so far told me what the public health department did between '50 and '60. Have you told me everything they did between '50 and '60 that you think is significant?
A No.
Q Okay. Go ahead.
A One of the major national surveys in 1950, the Graham, Windor survey --
Q We're with the public health department.
A I know.
Q As long as you and I are on the same level.

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Sorry to interrupt.
Go ahead.
A Graham and Windor published one of the first major national studies identifying the link between smoking and lung cancer, and the California Department of Public Health was instrumental in that research effort. The California public hospitals, public-run hospitals, were part of that initiative. And from that point on the Department of Public Health in California was very much alert to the growing crisis of lung cancer and cigarette smoking.
Q Okay. So the Public Health Department in California was alert to that, right?
A Yes.
Q If I told you that the head of the Public Health Department was a friend of Sir Richard Dau's, would you be able to say "yeah" or "nay" to that?
A I know who Richard Dau is, but I don't understand the question.
Q Who was the head of the Department of Public Health between '50 and '60 in California?
A Uh, you know, I'm -- I believe by the end -- I don't know.
Q Who was in charge of the smoking programs at the Department of Public Health between '50 and '60?

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A I don't think I've ever seen it defined. What term did you use, the smoking --
Q Smoking program. How have you seen it defined?
A I know there was a Division of Chronic Diseases that an anti-activist within the Department of Public Health headed, but I'm not -- I don't know that as an office within the Department of Public Health, as you stated.
Q Can you name any official at the Department of Public Health that had to do with anti-smoking stuff in California?
A Lester Brislow.
Q Between '50 and '60?
A Lester Brislow.
Q Who is that?
A Assistant in the Department of Public Health for many years in the 1950s and active in the anti-smoking programs.
Q All right. Have you ever met him?
A No.
Q Did you know him?
A No.
Q Is he still there?
A No, he's not.

CAROLAMPKIN COURT REPORTERS

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Q Is he still alive?
A Yes.
Q Where?
A I don't know.
Q Okay. How do you know Brislow?
A I'm not sure why I know he's still alive.
Q Anyone else in the California Department of Public Health between '50 and '60 that you think has anything at all to do with Betty Bullock's awareness of the risks of smoking?
A I believe that the results and the personnel with the Department of Public Health were reported in the newspapers that Betty Bullock looked at --
Q How could you know that?
A -- particularly in the Los Angeles Times.
Q How do you know that?
A Because I know that Betty Bullock read the Los Angeles Times in that period, and I've seen articles in the Los Angeles Times in the period between 1956 and 1960 that not only cites the studies by the Department of Public Health, but specifically quotes people like Mr. Brislow.
Q Where are those articles?
A Where are they?
Q Yeah.
A Some of these articles would be in the

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documents that I produced today.
Q Why not all of them?
A Well, I think all of them.
Q Okay. As far as the stuff that's in those boxes are concerned, why don't you tell me, newspaper wise -- that isn't going to sound very good, is it?
As far as the documents in the boxes are concerned, and especially as far as the newspaper clippings in the boxes is concerned, tell me what you decided to include?
A I included the Los Angeles Times, from the time she moved to California into the -- to 1970. And that actually is still part of a continuing process that I'm working on, which is to also provide smoking and health articles in the Los Angeles Times during the 1970s when she still was in L.A. County. And there are also articles from the Santa Ana Register during the period that she lived in Orange County -- excuse me. The Orange County Register.
Q But how did you decide which ones to include and which ones not to include?
A With the Los Angeles Times I essentially am in the process of compiling what will be, what I believe, every smoking and health article that I could find from 1956 through the 1970s.
Q And who did the looking?

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A I did some of it.
Q You, personally?
A Some of it.
Q What's your hourly?
A 140.
Q For everything?
A Yes.
Q How much were the researchers down at UCI being paid?
A Currently $29 an hour.
Q And the one up at San Luis Obispo?
A 18.
Q So your team -- I'm sorry. Who else besides you has put their hands on the newspaper articles?
A Uh, the three research assistants.
Q Just the four of you?
A Yes.
Q And what you've got here, to the best of your knowledge, is every article that deals with the subject of smoking and health that appeared in the Los Angeles Times between 1950 -- no.
A 1956.
Q 1956?
A Mid 1956.
Q And when --

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A Currently runs through 1970. And the researchers are helping me work right though to move it through the 1970s.
Q Why stop at the 1970s?
A Because Betty Bullock moved to Orange County.
Q I see. So what you're compiling now is the Los Angeles editions of the Los Angeles Times?
A Yes.
Q Have you already compiled Orange County editions of the Los Angeles Times?
A Only for some specific events --
Q Why?
A -- for -- my own methodology included picking what turned out to be 47 events that I thought were significant in -- for smoking and health issues, and it was to gather materials on those 47. It was somewhat of a limiting project because originally I thought this trial might be in February, and when I was working on that project my research assistants and myself sought out material on those 47 events, such as the Surgeon General reports in 1964, from the Los Angeles Times, and the -- and then once I got to 1970, from the Orange County editions of the Los Angeles Times and Orange County Register.
Q Who chose the 47 events?
A I did.

Q Based on what?

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A What I thought was a balance of different types of smoking and health events. And also I wanted to spread it out chronologically over the 50 years, or almost 50 years, so I wouldn't have too many from one decade, to just kind of get a view, looking at some specific events. Because at the time I began that I didn't think there would be enough time to look into every article on smoking and health in the L.A. Times.

Q Has anyone ever told you that's been done?

A Yes.

Q Who told you that?

A Uh, Arnold & Porter.

Q And who did it?

A Who did it?

Q Yeah.

A I believe Johnson, Tyler & Purvis.

Q Well, if they have done it, why don't you use their stuff?

A Well, as a research methodology it wouldn't be my work if I wasn't directing the gathering of the information.

Q Did anyone ever tell you that Elizabeth Cobbs-Hoffman came into court and had supposedly every article, and every material in the L.A. Times between 1950 and 1970 that dealt with smoking and health?

A No one told me that, but since I know that Liz

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was paid by Johnson, Tyler, Purvis, I think I -- maybe I assumed that.

Q Well, if you could use Johnson, Tyler, Purvis' stuff, why don't you?

MR. STOEVER, JR.: Objection. Assumes facts not in evidence. We don't know if he used the Johnson, Tyler, Purvis or someone else's. Calls for speculation. If you know, you can answer.

THE WITNESS: I don't know why. I'm sorry. I think you better ask the question again.

BY MR. PIUZE:

Q Have you ever discussed with anyone where Elizabeth Cobbs-Hoffman got all of her L.A. Times material? Supposedly she has every single article that ever existed over a 40-year period? Did you discuss with anyone where she got that stuff?

MR. STOEVER, JR.: Objection. Assumes facts not in evidence.

THE WITNESS: I -- no one talked to me about it, but I assumed -- I assumed it was the Johnson, Tyler, Purvis research program.

BY MR. PIUZE:

Q Why do you assume that?

A Because I believe that it was done for a previous case and I know that she was involved in the previous case.

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Q Well, there's been more than one case.
A Of course.
Q So how do you link it to her?
MR. STOEVER, JR.: I'm going to object. It calls for speculation. He said he assumes.
If you know, you could answer. But if you don't know, you should just say "I don't know."
THE WITNESS: Well, I don't know for sure. I assume, but I don't know.
BY MR. PIUZE:
Q Okay. For instance, because it's the Los Angeles Times you certainly would have assumed it was a California case, right?
A Excuse me?
Q Because it was the Los Angeles Times you certainly would have assumed it was a California case?
MR. STOEVER, JR.: Objection. Assumes facts not in evidence. That calls for speculation.
BY MR. PIUZE:
Q And because there's only been one smoking and health case tried in Southern California and Elizabeth Cobbs-Hoffman was in it, you assumed that the Purvis

research project is where she got her stuff from, right?
MR. STOEVER, JR.: Objection. Assumes facts not in evidence. Again, it doesn't -- I don't think there's any evidence to show that Johnson, Tyler, Purvis provided

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Elizabeth Cobbs-Hoffman the research.
If you know, you can answer. But don't guess.
THE WITNESS: I don't know.
BY MR. PIUZE:
Q How many tobacco trials have there been in California?
A Ever?
Q Yeah.
A I really don't know.
Q When was the first?
A I don't know.
Q Go ahead.
A I think -- I believe the first case was in Santa Barbara.
Q You're right. Do you know who it was?
A Galbreath case.
Q Do you know when that was?
A No.
Q Marvin Belly was the lawyer?
A I do know that.
Q He lost?

A Yes, I know that.
Q And there weren't any cases for 15 or 18 years, right?
MR. STOEVER, JR.: Objection. Calls for speculation.

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THE WITNESS: I don't know.
BY MR. PIUZE:
Q Okay. How many cases have you ever been heard of in Southern California against the tobacco industry?
A That I've heard of? Two.
Q What are they?
A Boeken and Bullock.
Q Okay. So if you're in charge of picking the 47 events, don't we have to worry about the fact that maybe you're picking them in kind of a biased way?
MR. STOEVER, JR.: Objection. Argumentative. Vague and ambiguous.
THE WITNESS: I don't believe so, because my intent is to find a cross section of smoking and health issues spread over the five decades to give, not only myself, but anyone who looks at it, a sense of what the newspaper representation was on these issues.
BY MR. PIUZE:
Q Okay. So is there a list of these 47 events?
A Yes.

Q Where?
A It would be in the documents.
Q Could you show me?
(Witness complies.)
MR. STOEVER, JR.: Actually, it's right there (indicating).

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THE WITNESS: There it is. I will give this to you.
(Witness hands Counsel a document.)
BY MR. PIUZE:
Q Who is William Talman?
A William is a character actor on the Perry Mason TV series.
Q Which character?
A He was the, I believe, prosecuting attorney.
Q He is sort of an obscure character, isn't he?
A No. I think William Talman was a very well-known character.
MR. PIUZE: Let's make this Exhibit 2. Let's make his C.V. Exhibit 1.
(Plaintiff's Exhibit 1 and 2 were marked for identification by the Certified Shorthand Reporter and retained by counsel.)
BY MR. PIUZE:
Q Is this C.V. up-to-date?
A I believe as of last December.

Q You're a member of the Board of Governors of the State Bar?
A Yes.
Q Are you going to rat on me for asking you these questions? Are you going to get me in trouble, raise my dues or something?
A The members dues were raised this year.

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Q Is that a historical fact?
A Yes.
Q How did you -- how did that happen, that you became a member of the Board of Governors of the State Bar?
A I was appointed by Governor Davis.
Q How did that come about? Did you apply for it?
A I applied.
Q For that specific position?
A Yes.
Q Why?
A It is of interest to me.
Q Why?
A It's -- it deals with issues I'm interested in: Law in California, uh, access to legal services for citizens of the state of all income levels. I'm interested in the issues.
Q What was the first of those two things that you just mentioned, before access?

A I'm interested in the law in California.
Q Why?
A Because it's an intrical part of our society and how it's moving, where it is and what the laws are and who makes the laws and --
Q Have you checked into that aspect of smoking and health here in California, the laws?
MR. STOEVER, JR.: Objection. Vague and ambiguous.

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THE WITNESS: Have I checked into it? I'm not sure what you mean by checked into it.
BY MR. PIUZE:
Q Well, historically speaking have you studied the laws in the State of California related to smoking and health in California?
MR. STOEVER, JR.: He's already testified about that, as well as state wide ordinances and valid initiatives. You mean other than what he already testified to?
MR. PIUZE: Yes.
THE WITNESS: I believe I studied laws as related to smoking and health in California.
BY MR. PIUZE:
Q Do you know that the tobacco industry got total immunity from actions of personal injury and wrongful death of human beings in California?

Are you aware of that?
MR. STOEVER, JR.: Objection. Assumes facts not in evidence. Lacks foundation. Mischaracterizes the law.
If you know, you can answer.
THE WITNESS: Could I hear the question again?
(Whereupon, the record was read as follows:
"Q Do you know that the tobacco industry got total immunity from actions of personal injury and wrongful death of human beings in California?

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"Are you aware of that?")
MR. STOEVER, JR.: Same objections.
BY MR. PIUZE:
Q Mr. Snetsinger, are you ready?
A Yes.
Q In 1998, was there a law passed in California granting immunity to the tobacco industry for suits against it, and its constituent members, for wrongful death and personal injury of human beings caused by tobacco?
MR. STOEVER, JR.: Objection. Beyond the scope of this witness' designation.
THE WITNESS: Not that I know of.
BY MR. PIUZE:
Q Go back and look at it again.
When you were working to research the laws of the State of California as it applied to the tobacco, I'd like to know exactly how you went about that, because this is a pretty big law.

MR. STOEVER, JR.: Objection. Argumentative. I think it misstates his earlier testimony.
If you understand, you can answer.
MR. PIUZE: It doesn't misstate anything.
MR. STOEVER, JR.: Well, I think his earlier testimony was that he went back to look at ordinances that controlled smoking. I don't think that that is one of these ordinances.

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But if you understand the question, Dr. Snetsinger, you can answer.

THE WITNESS: Could I have the question repeated?

(Whereupon, the record was read as follows:

"Q Go back and look at it again.

When you were working to research the laws of the State of California as it applied to the tobacco, I'd like to know exactly how you went about that, because this is a pretty big law.")

BY MR. PIUZE:

Q I want to know what you did in regard to researching the laws of the State of California as they dealt with smoking?

MR. STOEVER, JR.: Objection.

BY MR. PIUZE:

Q Because I happen to know for 100 percent certainty that Philip Morris and its cohorts were granted immunity from lawsuits such as this in 1998 -- excuse me -- in 1988, ending in 1998, and I'd like to know how that got overlooked in your analysis here?

MR. STOEVER, JR.: Objection. Argumentative. Mischaracterizes the law. It's speculative and it lacks foundation and assumes facts not in evidence.

If you understand the question, you can answer it.

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THE WITNESS: I do not know. I do not know the facts, as you characterize them, about that particular law.
BY MR. PIUZE:
Q We know that that's established?
A Yes.
Q Okay. You're an expert witness. One of the things expert witnesses do is they take hypothetical questions where the lawyer says, I want you to assume such and such and such and such, tell me your answer. This is a hypothetical question.
Just assume that during the end of the 1997 legislative term a law was passed to take effect, and just assume during the end of the 1987 legislative term a law

was passed to take effect in 1988 which granted total immunity to tobacco manufacturers for personal injury or wrongful death, based on the consumption of tobacco. Just assume that to be true.
Why is it that you didn't know that?
MR. STOEVER, JR.: Objection. Argumentative. Incomplete hypothetical. Assumes facts not in evidence.
And, again, if you think you've already testified what you looked at, the state laws. If you can answer the question, go ahead.
THE WITNESS: I'd say, again, that I'm not familiar with the facts, situation of a particular industry being

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granted total immunity. I don't know this.
BY MR. PIUZE:
Q This is certainly something that would be important for you to know, would it, or would it?
MR. STOEVER, JR.: Objection. Argumentative.
If you understand --
THE WITNESS: What would -- tell me again the question. What would be the --
BY MR. PIUZE:
Q This is about the sixth time now and, I mean, I know that if you're teaching at our public universities you don't need these questions six different times. Let's do it differently.

Who looked at California laws for you, you or the lawyers?
A I did all my own research, but --
Q How do you look for California law? How do you go about doing it? Do you use a computer?
A No.
Q Okay. What do you do?
A I looked for California laws, beginning with the secondary sources I've read, and looked for California laws in the other sources. I wasn't there.
Q What are second sources?
A Newspapers, magazine articles, to see what California laws are mentioned in relation to smoking and

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health.
Q What magazine articles?
A Whatever magazines articles I'm looking at in my research.
Q I know. But I'm asking you which, because California is one of 50 states. The odds of getting something about California law in Look magazine, Life magazine might be slimmer than looking at a California-based magazine. Did you look at any California-based magazines?
A Not that I recall.
Q These newspapers that you've looked at, you've

actually had people get all of the L.A. Times articles dealing with tobacco down in Orange County, the Orange County version, all the way through to when, ending when?
A Right now this is an ongoing process. Right now through 1970, the complete look at the L.A. Times smoking and health articles.
Q I thought we'd already established that, as far as the Orange County version --
A Yes.
Q -- of the L.A. Times you'd gone way further than that, hadn't you?
A Yes.
Q How far?
A Based on 47 -- we looked at those 47 events.

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Q Right. The events that you considered to be important?
A Yes.
Q When it comes to smoking and health in California?
A Yes.
Q And one of these events was some actor who played Perry Mason's prosecuting attorney died?
A Yes.
Q Wouldn't you consider the fact that the entire industry was granted immunity from lawsuits in California

for personal injury and wrongful death, wouldn't you consider that to be an important event?
MR. STOEVER, JR.: Objection. Calls for speculation.
THE WITNESS: I think that there are lots of important events.
BY MR. PIUZE:
Q Why don't you answer my question, please.
Don't you think that the fact that the State of California granted immunity to the tobacco industry for personal injury and wrongful death to Californians resulting from smoking cigarettes would be an important issue when it came to smoking and health?
MR. STOEVER, JR.: Objection. Calls for speculation.

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Again, if you know, you can answer.
THE WITNESS: I think that it is one of many important events. And my understanding is that there was immunity from personal lawsuits for about a ten-year period in the late ’80s into the late ’90s, but your characterization of it granted total immunity is something that I’m not completely familiar about. I’m not completely familiar with that part of it.
BY MR. PIUZE:
Q Well, now you got me confused.

Are you saying now that you did know that there was immunity?
A I knew that there was immunity from -- I believe there was immunity from personal lawsuits over about a ten-year period.
Q What years?
A In the late ’80s to the late ’90s.
Q How did you know that?
A I’ve seen -- I saw -- I’m not sure exactly where I saw it, but I’ve seen references to it.
Q Why did you just finish telling me a whole bunch of times on this transcript right now that you’re not aware of that?
MR. STOEVER, JR.: Objection. I think that misstates his earlier testimony.
THE WITNESS: No. I was unaware. I’m unaware, was

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unaware of some of the specifics that you asked about the immunity for specific law, specific tobacco companies. I don't -- I did not know, or do not know that, about that particular ten-year period of immunity.
BY MR. PIUZE:
Q You know, you just finished telling me that you know it, and earlier you told me you didn't know and I'm trying to figure out which one is right. And I can't follow the bouncing ball.

MR. STOEVER, JR.: Objection. It's argumentative.
If you understand the question, go ahead and answer it. I think Mr. Piuze has asked the question several different ways.
If you know, go ahead and answer, but if you don't know, say "I don't know."
MR. PIUZE: I've got news for you, Mr. Stoever. I don't have to confuse this witness on this issue. It's essentially not my intent.
Q Can you tell me, sir, why you said, probably six different times in this record today, that you were unaware of any immunity granted to the tobacco industry for personal injury or wrongful death to California smokers, and now you tell me, "Well, yeah, I did know that"?
MR. STOEVER, JR.: Objection. Asked and answered. It's argumentative. It misstates earlier testimony. It's vague and ambiguous.

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BY MR. PIUZE:
Q Go ahead.
A Can you repeat the question?
(Whereupon, the record was read as follows:
"Q Can you tell me, sir, why you said, probably six different times in this record today, that you were unaware of any immunity granted to the tobacco industry for personal injury or wrongful

death to California smokers, and now you tell me, "Well, I did know that"?)
MR. STOEVER, JR.: Do you understand the question? You should answer it.
THE WITNESS: I believe that what I said was that I'm aware of the ten years period where there was immunity, but what I was not and am not aware of are the specifics that you mentioned in that.
BY MR. PIUZE:
Q Such as?
A That specific tobacco industry companies were given total immunity.
Q Which specific?
A I don't know, whichever companies you said.
Q I didn't say.
MR. STOEVER, JR.: Objection. I think the question did enumerate companies.
MR. PIUZE: Really?

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MR. STOEVER, JR.: Yes.
MR. PIUZE: That would be interesting.
Q What else was it that I said that made it difficult in answering these questions, please?
A I think that was what was the most -- that was the question that I had in my mind.
Q Well, if you had known at all times during the

deposition that there was immunity in California -- you knew that, right?
A I believe that there was immunity in California from individual smokers suing.
Q Suing who?
A The tobacco companies.
Q Right. Why didn't you list that on Exhibit 2?
A Again, because the point of the 47 events was to get a cross section. I didn't try to be inclusive of every important tobacco and health issue -- event, sorry.
Q Well, total immunity from all injury and death suits in the United States is a pretty significant event, isn't it?
MR. STOEVER, JR.: It's not necessarily significant to what the public knew about the health risks of smoking.
MR. PIUZE: Well, I guess that's what you call a speaking objection. So why don't you refrain from those. What's good for the goose is good for the gander.
MR. STOEVER, JR.: Precisely.

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BY MR. PIUZE:
Q What's your answer to my question?
A Please read the question again.
(Whereupon, the record was read as follows:
"Q Well, total immunity from all personal injury and death suits in the United States is a

pretty significant event, isn't it?")
MR. STOEVER, JR.: Same objections.
THE WITNESS: I believe they are all very important events, but I just chose these 47 as representative.
BY MR. PIUZE:
Q The question is out to you. Can you answer the question?
A Immunity from suit is an important event.
Q Why didn't it find its way onto Exhibit 2?
MR. STOEVER, JR.: Same objection. It's been asked and answered.
THE WITNESS: Because I felt that I have a representative sample that is a good list.
BY MR. PIUZE:
Q For what? Good list for what?
A To study the public awareness of smoking and health issues, which is my focus.
Q So this thing about the City of Newport Beach involving no smoking in City Hall, which you don't know whether Betty Bullock ever set foot in, is more significant

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than the fact that the industry gets total immunity from personal injury and death cases brought by individuals?

MR. STOEVER, JR.: Objection. Argumentative, and calls for speculation.

THE WITNESS: My effort wasn't to get simply the

most important events, as much as it was to get a range of different types of events. I think it's actually an important event when an ordinance is passed in the town where the plaintiff lived.

BY MR. PIUZE:

Q How about a law in the state in which she lived?

A I wouldn't argue that one is important and one isn't. One is important and the other isn't important. There is a lot of important events. I chose these 47.

Q Well, I'm wondering about the events you left off.

A I didn't leave events off as much as I was trying to get kind of a balance of public awareness issues on smoking and health, balanced over the decade, and dealing with a variety of events and different approaches.

Q Balanced in whose favor?

A Un- --

MR. STOEVER, JR.: Objection. It's argumentative.

THE WITNESS: Unbiased. To get a representative sample of smoking and health events.

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BY MR. PIUZE:
Q Okay. Anyway, before I leave this subject and go on to Exhibit 3, right now you're ready to acknowledge that coming into the room today that you were aware that

there was immunity in this state from individual lawsuits of smokers for about a ten-year period, correct?
A I am aware and have been aware that there was a ten-year period in which smokers were barred from bringing individual suits.
Q All right. Do you know what the State of California got out of the Attorney General's master settlement agreement?
A In terms of money?
Q Yeah.
A $25 billion over 25 years.
Q What year was that?
A What year was the master settlement?
Q What year did California become the beneficiary of such a number?
A I believe the settlement was in 1998.
Q Is that on your list?
A Yes.
Q I don't see California mentioned here at all.
A I'm sorry. The master settlement is on the list.
Q Where do you get your information that the

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California share was $25 billion?
A I've actually seen a breakdown of where the money goes, and I believe I've seen it in a number of

sources.
Q Where?
A Maybe the State of California web site that -- I think I've seen it multiple times, and I'm not sure exactly where.
Q Why is the March 22, 2000 entry important to Betty Bullock?
A I don't believe that each of these events is -- specifically relates to Betty Bullock. Again, the idea is to come up with events that give me a range of the materials on public awareness issues in smoking and health.
Q Why is the March 22, 2000 entry important to anyone in the State of California when it comes to awareness of smoking and health?
A Because I think it reflects public -- it's the FDA ruling by the Supreme Court. I believe it reflects public opinion and a number of issues on smoking and health.
Q Presumably the Supreme Court doesn't rule to reflect public opinion. Although, there are some instances where what the Supreme Court rules on tends to reflect public opinion.

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A Sometimes they do.
Q Well, I already acknowledged that. But they're not supposed to, are they? They're supposed to acknowledge the law, aren't they?
A I think in a democracy you can argue that Supreme Court decisions may, perhaps, relate to public opinion.
Q Under what authority did the FDA want to regulate tobacco?
A Under what authority?
Q Yeah.
MR. STOEVER, JR.: Objection as vague and ambiguous. I think that's beyond the scope of this witness' designation.
MR. PIUZE: Certainly not, not with that listing there.
THE WITNESS: As -- I'm not sure specifically, but I think I believe that it related to their control of substances perhaps -- I'm not sure of the terminology why it would be included in what the FDA would recommend.
BY MR. PIUZE:
Q Do you know what "D" means in FDA?
A Drugs.
Q Didn't the FDA claim that tobacco should be treated like a drug?
MR. STOEVER, JR.: Objection. Misstates what the

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FDA claimed.

MR. PIUZE: I'm asking.
THE WITNESS: I just don't know.
BY MR. PIUZE:
Q Didn't the Supreme Court say you can't do that because it ain't a drug?
A I don't know if that's what the Supreme Court said.
Q If you don't know these things how in the world is a smoker in California supposed to gain anything out of this?
MR. STOEVER, JR.: Objection. Argumentative. If you'd like him to take a look at the newspaper articles in the boxes in order to answer your questions --
MR. PIUZE: No. I don't want him to look at that.
MR. STOEVER, JR.: So you want him to remember this stuff off the top of his head?
MR. PIUZE: No. I'm remembering a man who sat here confidently at the beginning of the deposition and told me the names of all the Bullock people, in the order of when they were born and their ages. He had the stuff down so cold that I was stunned. I was in awe. And I'm exaggerating, but I was impressed. So he doesn't need to open up the boxes, in my view. Okay?
MR. STOEVER, JR.: I understand the boxes contain the articles that are mentioned on this list. And if you

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want to do a memory test, that's fine, but we can figure out the answers to these questions pretty quickly.

MR. PIUZE: Yeah.

Q So here's one of the 47 most significant events?

A No.

Q 47 most what?

A 47 representative events.

Q 47 representative --

A -- events on smoking and health issues.

Q That has to do with smoking and health issues and you -- that's you who have been paid going on $200,000 by the tobacco industry to conduct this research, don't have a clue what this event is?

MR. STOEVER, JR.: Objection. Argumentative and misstates his testimony.

THE WITNESS: I believe I have a clue as to what it is.

BY MR. PIUZE:

Q Tell me.

A I haven't looked at that material in the immediate past, but the Supreme Court on a five to four decision ruled that the FDA did not have authority to regulate tobacco smoking, to regulate cigarettes.

Q So what.

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A Well , I think--
MR. STOEVER, JR.: Objection. Vague and ambiguous.
BY MR. PIUZE:
Q Why is that significant? Why is that important? Why is that representative?
A The fact that the Supreme Court ruled on a five to four decision, to me, indicates, among other things, that there is a very strong sense in America today against smoking, and that the FDA would come within one vote of the Supreme Court decision indicates a different attitude towards smoking.
Q But the FDA would come within one vote of what? You don't know what they wanted to do.
A They wanted to regulate.
Q In what way?
A I believe, among other things, was to control advertising or maybe eliminate advertising. I'm really not sure what it was, and to put restrictions, strong restrictions on public access to cigarettes. But I can't remember the specifics of exactly what the plan was. Maybe it was not a specific plan that was actually proposed.
Q Well, if you don't even know that there was a plan, respectfully, sir, if you don't know there was a plan, what does a five to four vote of the Supreme Court have to do with anybody?

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MR. STOEVER, JR.: Objection. Argumentative. Again, his materials contain all the information. If you'd let him look at them I'm sure he could answer the question more clearly. You're trying to run a memory test here.

BY MR. PIUZE:

Q Go ahead.

A I just don't remember all the specifics of the case right now, but I do know that the FDA had a plan of action on what they would like to do with authority over cigarettes.

Q An unknown plan of action?

A I think there was a known plan, but I'm not aware of details.

Q A known plan to you?

MR. STOEVER, JR.: As he sits here today he can't remember it. Again, he's read the records and he could refer to them now, and he'd be able to tell you.

BY MR. PIUZE:

Q What do you think that the representative California smoker would remember about that plan?

A I don't know.

Q Okay. Now, who decided which videotapes to bring here today?

A I did.

Q How many -- where did you get these

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videotapes?
MR. STOEVER, JR.: Objection. Asked and answered.
Go ahead. If you understand the question, you can answer.
THE WITNESS: I'd have to look at each one to tell you where I got it.
MR. PIUZE: Okay.
THE WITNESS: California Department of Health Services Anti-smoking PSAs, I received from Arnold & Porter.
BY MR. PIUZE:
Q What are PSAs?
A Public Service announcements.
Q When did you receive them from Arnold & Porter?
A Sometime in the last three or four months.
Q Have you ever seen them?
A Yes.
Q You watched those?
A Yes.
Q That are on that videotape?
A Yes.
Q When?
A After I received it. But I couldn't tell you the exact day. Sometime over the last these or four months.

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Q How many are on there?
A It's a lot. Can I give you the exact number? I think it's 90 or something. This one doesn't have the listing on the side. I don't know. But it's a significant number.
Q Like over ten?
A I don't know.
Q Had you seen them all --
A Yes.
Q -- previously?
A Previously to getting the tape?
Q Yeah.
A I don't believe so.
Q Had you seen any of them?
A Yes.
Q How many?
A I don't know.
Q Half, 10 percent?
A I just don't know.
Q No clue?
A No.
Q Okay.
A Anti-smoking PSAs from the Dart Collection, I received this from a Historian Greg Black at the University of Missouri at Kansas City.

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Q What is the Dart Collection?
A I'm not sure of the meaning of Dart. It's the name of the person that funded the program. It's a collection of public service announcements, and maybe it's restaurant smoking, but I know it's a collection of anti-smoking PSAs.
Q How did you come into the knowledge that there was tapes from the University of Missouri?
A Greg Black, who has possession of the tapes, had called me and asked me if I would be interested in having a set.
Q Did you know Greg Black?
A Uh, no.
Q Did you say, "Why are you calling me?"
A No.
Q "Where did you get my name"?
A No, I didn't.
Q Weren't you interested?
A No.
Q Did you say, "Greg, did you pick my name at random out of a phonebook"?
A No, I did not.
Q Why not?
A Because I believed that he is a historian who is working on smoking and health issues.

Q You believe that or you know that?

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A I believe it, but I don't know it.
Q Did you discuss with him whether or not he is a historian? Is he a historian?
A I believe so.
Q Why do you believe that?
A I'm not sure why I believe that, and I don't know that he is.
Q Is he a faculty member there?
A I believe that's the case.
Q Did he say that?
A I think I saw a -- he may have said it. I don't remember if he said it, but I received a couple of -- I received a couple of letters from him, where he sent some tapes, and on the tapes it seemed to me in the letters -- it seems to me that he's a professor.
Q At the University of Missouri?
A University of Missouri at Kansas City.
Q Did you ever ask any of the lawyers with whom you're in contact who he is?
A No.
Q Did you ask any of the lawyers with whom you're in contact with if they're the ones that put him in touch with you?
A I may have, but I don't remember.

Q So you came -- just for your state of mind now, and this is, like, a lawyer term, but just a state of mind,

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you just assumed that he was another historian at another academic institution on the payroll of another law firm doing research into tobacco and health issues; is that right?

MR. STOEVER, JR.: Objection. Misstates his earlier testimony.

THE WITNESS: No, I don't believe I assumed all that.

BY MR. PIUZE:

Q Okay. What part of that did you not assume?

A I'm not sure if I assumed it, but when he called me I -- when he called me it occurred to me that he must be -- maybe not a historian, I guess, I'm not sure a historian, but an academic involved in smoking and health. Who he works for and what else he does, I don't know.

Q Do you think he worked for me?

A No.

Q Do you think that he worked for some lawyer who represents a sick smoker out there somewhere?

A Represents?

Q A sick smoker out there somewhere.

A I don't know. I, again, never discussed it with him.

Q Okay. So to leave that subject -- Greg Black, right?

A Greg Black.

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Q Okay. Did you ever look him up? Is there an organization that you belong to, like, American Board of History Professors?
A Yes.
Q Did you ever look him up?
A No, no.
Q Third tape?
A Yep. See It Now. Actually, more than See It Now. It's See It Now and two of five apparently news shows -- not apparently, five news shows. And I received this tape from Arnold & Porter.
Q Why? Did you ask for that?
A I believe I did.
Q Why did you ask for it?
A I believe I asked if -- I believe I indicated that I would like to have copies of the two Edward R. Morrow shows on smoking and health.
Q How did you know there were only two?
A I read that in primary sources. I never read anything other than that, and Edward R. Morrow.
Q What source?
A Secondary source.

Q What?
A Most likely one would be Ashes to Ashes.
Q What else?
A There are so many. I don't want to

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misidentify. Ashes to Ashes, I believe would have been mentioned on the two See It Now tapes.

Q Have you read Ashes to Ashes?

A I've read a lot of Ashes to Ashes.

Q What does that mean?

A It means it's a very dense book and I'm not sure I've read every paragraph, but I've read Ashes to Ashes in -- certainly the great majority of it. Probably almost all of it.

Q Starting when?

A Starting when I read it?

Q Yes.

A Maybe -- I don't know years -- certainly more than a year ago.

Q All right. What other secondary source books have you read?

Don't put that away quite yet.

A Sandra Tate, Cigarette War.

Q Okay.

A Stanton Glance, Tobacco Wars, I believe is the title.

Q Tobacco Papers?

A No. I've looked at the Tobacco Papers, but not extensively at all, no. The book I'm referring to is Tobacco Wars.

Q What about Civil War Records? Have you read

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that?
A Yes, I did.
Q What about -- what others? Go ahead.
A I'm not sure if I can remember the names. I'm trying to think of the name of the Jacob Solomon book and the name is not coming to me now.
Q All right. So, anyway, you believe that you heard about the Edward R. Morrow's broadcasts in a book called Ashes to Ashes, correct?
A I believe that is one place where I've heard of it.
Q And you talked to the lawyers at Arnold & Porter and asked if they could get you a copy of those Edward R. Morrow broadcasts; is that correct?
A I believe so.
Q Back to Purvis' room, three times the size of this one.
What kind of tapes were there?
MR. STOEVER, JR.: I'll just state an objection. I think you misstated the description of the archives, but go

ahead.
THE WITNESS: I don't know all the tapes that they have. I know they have a collection of movies that deal with the subject of smoking and health.
BY MR. PIUZE:
Q Yep.

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A Uh, they have collections of television -- mostly television programing. Not news, but television programing. And they have tapes on newspapers, on news programing.
Q I'm sorry?
A Tapes on news programing.
Q What about television programing? What does that mean?
A Uh, network programing situations, comedies, things like that.
Q Did you look at them?
A Uh, if I did, there's not much that I remember.
Q Did you look at them?
A Yes.
Q And when I said look at, I was sort of picturing you going down the shelves of a library and looking at the bindings to see what was there. You certainly did that, right?
A Yes.

Q But beyond that you actually watched the contents of some of the tapes, right?
A Yes.
Q Such as?
A I remember a Happy Days tape, a sit com, Happy Days.
Q How did you choose Happy Days?

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A I don't remember.
Q What about stuff like the Tonight Show with Jack Parr, and then Johnny Carson? Did they have those in there?
A Not to my knowledge.
Q You've watched those shows, didn't you?
A Sometimes.
Q Jack Parr was -- smoked on the air, didn't he?
A I don't know.
Q Johnny Carson smoked on the air, didn't he?
A I believe he did.
Q Ed McMahon smoked on the air, didn't he?
A I don't know.
Q What year did smoking leave the shows? Do you remember?
A I don't know if there was a single year.
Q Do you think it was prohibited at some point?
A Prohibited?

Q Yeah.
A By the network, individual network?
Q By some law.
A By some law?
Q Yeah.
A By some law?
Q That you can no longer have smoking on the news or Tonight Show or Today Show, stuff like that?

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A I don't know that.
Q Okay. Did you ever watch the Today Show?
A Yes.
Q Do you remember in the beginning who that was, Dave Carroway?
A Yes.
Q Jack Dresbruli?
A Yes.
Q And the Chimpanzee, Mr. Muggs?
A Yes.
Q Two out of three thousand smoked cigarettes on the air, right?
Right?
A I don't know.
Q You saw -- did you see Dave Carroway smoking on the air?
A I don't remember Dave Carroway smoking on the

air.
Q Jack Dresbruli?
A I don't know.
Q Who followed on the Today Show after that group?
A I don't know.
Q Do you remember smoking on the Today Show with other people?
A I don't know.

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Q What about Brian Gumbel?
A I don't know.
Q Okay. News shows. Do you remember people smoking on the news shows?
A Uh, I -- you know, I don't know that. If we're talking about network news shows --
Q I'm asking a question. I'm not stating a position. I'm asking a question.
A I don't know that.
Q Do you remember smoking on game shows, network game shows, What's My Line, I've got a Secret, shows like that?
A I don't remember it, and I have not seen tapes of that so I'm not really aware of it.
Q When you were a kid growing up in California, what was your favorite sport?

A Baseball.
Q Who was your favorite team?
A The Dodgers.
Q What about before there were Dodgers in Los Angeles?
A In Los Angeles? Well, I wasn't in Los Angeles.
Q I know. But what about before the Dodgers moved to Los Angeles?
A The Los Angeles Angels and Hollywood Stars.
Q I'm asking who your favorite team was. I'm not

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asking who was here. I'm asking who your favorite baseball team was before the Dodgers.

A Brooklyn Dodgers.

Q Did you ever see any of the Dodgers advertising the fact that they smoked?

A I don't remember that.

Q What about Ted Williams? Ever see Ted Williams advertise the fact that he smoked?

A No.

Q Joe DiMaggio?

A Yes.

Q Where did you see that?

A On a print photo of Joe DiMaggio smoking in the clubhouse.

Q Was it a happenstance or was he a spokesperson

for the brand?

A I think both.

Q Okay. And Joe DiMaggio -- just because, you know, for some of these people who may be listening to your testimony or reading it may not know, Joe DiMaggio was considered to be one of the top two or three baseball players of his era?

A He may have been the greatest baseball player ever.

Q Are you saying that because he got Marilyn Monroe?

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Okay. Next tape. So, anyway, on this tape that's still sitting here, you asked Arnold & Porter to get you that tape?

A I believe so.

Q Let me see it, please.

Why don't you just read what is there.

A Five listings here: One, One in 20,000, in 1954.

Two, CBS News See It Now (Part I, May 31, 1955.)

Three, CBS News, See It Now (Part II, June 7, 1955.)

Four, Eisenhower Press Conference (1957).

And, five, CBS News, Stories on Smoking (1957 to 1959.)

Q Did you ask for all these tapes, specifically?

A No, I don't believe so.

Q Who gave them to you?

A Arnold & Porter sent me the tape.

Q Did you ask for any of them, specifically?

A See It Now.

Q And they just sort of volunteered the rest?

A I don't know.

Q Do you think they're in a position to give you you a balanced view, Arnold & Porter?

MR. STOEVER, JR.: Objection. Calling for

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speculation. Argumentative.
BY MR. PIUZE:
Q Do you think that they're willing to give you a balanced view of what is going on in the tobacco industry?
MR. STOEVER, JR.: Objection. Calls for speculation.
THE WITNESS: I don't think that balanced view relates to the sending me of the tape.
BY MR. PIUZE:
Q Because they're the ones that pulled out the stuff to put on the tape, they volunteered certain stuff, but not other stuff.
A But I actually asked for two Edward R. Morrow

signator tapes.
Q And they gave you this other stuff, too, right?
A I believe so.
Q Without you're asking for it, right?
"Yes"?
A I --
Q "Yes"? Just say, "yes."
A But I don't know why the other tapes are included. I don't know.
Q Okay. You didn't ask for it, but they gave it to you anyway, correct?
A I asked for See It Now, and I got See It Now,

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and there apparently is other material on the tape.
Q Okay. What else? Let's hear more.
A NBC News Special, Smoking and Health, January 11th, 1964, Arnold & Porter.
Q You didn't ask for that either, did you?
A Yes, I did ask for that.
Q How did you know about that?
A Uh, January 11th, 1964, is the night of the Surgeon General's report, and each network had a special show that night on smoking and health and the issues involved in the Surgeon General's report. And I know they're really kind of famous shows, and because they're

not obscure items, I asked. And -- I'm sorry. The one remaining tape beyond the one we're discussing was the CBS News Special, and I asked for both.
Q Let's back up to the last tape.
Before you mentioned those two, it had an Eisenhower press conference on there, right?
A Yes.
Q What did Eisenhower say?
A The 1957 Eisenhower tape? I don't remember. I think it's been -- I don't remember.
Q Did he say who is Francis Gary Powers?
A He did not say that.
Q Do you know who that is?
MR. STOEVER, JR.: Francis Gary Powers?

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MR. PIUZE: Yeah.
MR. STOEVER, JR.: Wasn't he the guy that flew the helicopter for the local TV shows and did the traffic reports?
THE WITNESS: Yes.
MR. STOEVER, JR.: And prior to that had a small accident over the Soviet Union?
MR. PIUZE: No.
MR. STOEVER, JR.: Okay. Different guy then.
MR. PIUZE: That's a rumor.
Q On this NBC tape that you mentioned there's

things other than the January 11th, 1964 tape, right?
A Yes.
Q What else is there?
A Uh, clip of David Olgalvi, a Collision of Interest.
Q Who is David Olgalvi?
A I don't know. It's a 48-second tape and I don't know.
Q You've never heard of that one before, have you?
A No.
Q Okay.
Next?
A Clip of Sir Roger Platt, a Collision of Interest.

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Q Never heard of him before?
A No.
Q And CBS reports, a Collision of Interest, April 15th, 1964. Never heard of that before?
A Uh, April 15th --
Q So you were doing your taxes that day, you never heard about that?
A No, I don't know that.
Q All right. Have you ever heard of a TV show called Death in the West?

A Yes.
Q How have you heard of that?
A I came across that in the archives at the University of California San Francisco from the collection, I believe, of Californians for Non-smokers' Rights.
Q Did you watch it?
A Yes.
Q Do you know if that was ever shown?
A Shown?
Q On television.
A On television?
It was shown on television.
Q Where on television?
A I know it was shown by KRON.
Q K-R-O-N?
A Yes, it was.

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Q Do you know if it was ever shown in English?
A No, I don't know.
Q Didn't Philip Morris suppress that show in English?
MR. STOEVER, JR.: Objection. Lacks foundation. Calls for speculation. Assumes facts not in evidence.
BY MR. PIUZE:
Q You're a historian. Didn't you run across the fact that Philip Morris backed those people down and

suppressed that from being shown on English television?
MR. STOEVER, JR.: Assumes facts not in evidence. Calls for speculation. Lacks foundation.
If you know, you could answer.
THE WITNESS: I don't know that Philip Morris suppressed it.
BY MR. PIUZE:
Q Do you know that Philip Morris is trying to suppress me?
MR. STOEVER, JR.: Objection. Calls for speculation.
BY MR. PIUZE:
Q I have an April 23rd letter from John Carlton at Arnold & Porter, and it says that if I send out any letters, Philip Morris and Arnold & Porter are going to sue me for liable and slander and take me out and beat me up.
See all that?

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MR. STOEVER, JR.: Objection. This is beyond the scope of this witness' designation.
BY MR. PIUZE:
Q What do you think about that, given the fact I have free speech in this question?
MR. STOEVER, JR.: Objection. Calls for testimony that is irrelevant.
MR. PIUZE: Does that assume a fact not in evidence,

too?
MR. STOEVER, JR.: Irrelevant testimony. It's beyond the scope of this witness' designation. If you want his personal opinion, I don't know how that is relevant to this case.
MR. PIUZE: Do you believe that. We're liable to Philip Morris Incorporated and its counsel. No matter what I say about Philip Morris, I can never talk enough bad stuff about them.
MR. STOEVER, JR.: Can I take a five-minute break at this point?
MR. PIUZE: Can I just get this last thing out of the way first?
MR. STOEVER, JR.: Yes.
BY MR. PIUZE:
Q What is that called, DVD? What?
A DVD.
Q DVD. Did you make it?

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A No.
Q Who made it?
A I asked Arnold & Porter to make it.
Q What's on there?
A Let's see. One, two, three, four, five, six, seven, eight Surgeon General reports.
Q How many Surgeon General reports have you seen

on smoking?
A 25 is the usual figure that's given.
Q How come you only chose eight?
A I chose a representative sample over four decades.
Q Yeah. Who decided what was representative?
A I did.
Q Which ones did you choose?
A I chose the first -- what is generally considered the first one, in 1964.
Q Yeah?
A Then the one three years later, 1967 -- well, 1967. I also included two of the Surgeon General reports on cigarette smoking issues and running right through the final one in 2001 on women and smoking.
MR. PIUZE: Okay. So if one of you wants to take a break now, go ahead.
(Brief recess.)
BY MR. PIUZE:

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Q Who do you know, aside from lawyers and co-historical researchers employed by the lawyers that has ever read any of the Surgeon General's reports?
A I don't know.
Q No one, correct?
A I just don't know who reads them and who

doesn't read them.
Q I'm asking who you personal know. Besides the lawyers and the co-researchers hired by the lawyers, do you know anyone in the whole world that reads any of the Surgeon General's reports?
A I don't know anybody that read them and told me.
Q Tell me the name of anyone you thought would read them.
A I can't give you a name.
Q Now, aside from the videos and the DVD that we're going to have the court reporter mark as 3, 4, 5, 6, 7, 8 --
MR. STOEVER, JR.: Literally, so the record is clear, it's not a DVD, it's a CD rom.
MR. PIUZE: I'm quoting him.
MR. STOEVER, JR.: I know. I just don't want anything to be mistaken. It's a CD rom.
(Plaintiff's Exhibits 3 through 8 were marked for identification by the Certified

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Shorthand Reporter.)
BY MR. PIUZE:
Q Was Ringo Starr with the Rolling Stones?
A I don't believe so.
Q Okay. Aside from these -- let's identify the

rest of the stuff that you brought with you. I'd like to know if you left anything behind that didn't make it here as part of your files.
A No, not that I know of.
MR. STOEVER, JR.: I will represent we have not reproduced to you copies of pleadings and depositions that he reviewed.
MR. PIUZE: Thankfully so.
MR. STOEVER, JR.: I thought you would be grateful.
MR. PIUZE: You guys know I frown on the unnecessarily killing of trees.
Thank you.
Q Tell me what that is, please.
A This contains both index and short abstracts from the Vanderbelt Television News archive.
Q Vanderbelt University?
A Yes.
Q How did you know it had a news archive?
A I discussed it with a historian who compiled this material named Glenn Maye.
Q And where does Glenn Maye work?

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A University of Oregon.
Q American History?
A I'm not sure.
Q How did you know to talk to him?

A He called me.
Q Out of the blue?
A He called me.
Q You never heard of him before?
A I had heard the name, but I didn't know him.
Q Where had you heard of the name?
A I don't know.
Q Did he tell you how he'd heard your name?
A No.
Q Did he tell you he was another historian working on tobacco and health projects for the tobacco industry?
A No.
Q What did he tell you?
A I don't remember exactly what he told me. He introduced himself and we talked about this project, that the project that he's been working on, of which this is one of the results.
Q Have you happened to notice how many notes I've taken so far during the deposition?
A I hadn't noticed until now.
Q How many?

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A None.
Q So you'll forgive me, because the list keeps growing as we go on, and I just want to know if there are

any historians left in the country that Philip Morris hasn't hired yet.
So this guy's name up in Oregon, tell me again.
A Glenn Maye. I believe two n's in Glenn, and I believe it's M-a-y-e.
Q And in Missouri?
A Greg Black.
Q Santa Clara?
A Santa Clara?
MR. STOEVER, JR.: Objection. I think that misstates earlier testimony.
BY MR. PIUZE:
Q Where are those other two guys from?
A The two guys are from San Jose State University.
Q Who are they?
A Larry Engelmann.
Q Spell it.
A E-n-g-e-l-m-a-n-n.
Q Yep.
A And Ben Klein. And I think it's -- I've never seen the name printed, so I don't know.

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Q B-e-n, probably, though?
A Probably.

Q Okay. And then besides -- who is the first guy?
A The first guy?
Q Who called you originally, the first historian that called you.
A Michael Schaller.
Q And what institute is he with?
A University of Arizona.
Q S- --
A S-c-h-a-l-l-e-r.
Q And what school is Cobbs-Hoffman with?
A San Diego State University.
Q Thanks. Are there more that I've forgotten that you've mentioned here today?
A Not that I recall.
Q Are there any others that contacted you, historians that sort of gave you a call and said, "I've got some stuff for you"?
A Yes.
Q Who?
A Uh, a guy by the name of Dick Means, Richard Means.
Q Had you ever heard of him before?
A No.

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Q What school?
A He's actually deceased now. And when I talked to him he was retired, and I don't know his school affiliation.
Q He told you he was a historian?
A No. I don't believe he was a historian. I believe he was in another field.
Q What?
A I don't know.
Q Told you he was a university professor, retired?
A Yes.
Q And what else did he tell you?
A He told me that he had been working on textbook requirements in various states on how they handled smoking and health issues.
Q And did he volunteer anything about California?
A Yes. He actually asked me if I would like to see some material on California textbooks.
Q Did you immediately tell him no?
A No.
Q Did you immediately tell him maybe South Dakota would be more meaningful?
A No.
Q Did he have anything on South Dakota?

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A I don't know. He died before I was -- before I had been involved with Arnold & Porter in the case, so I never talked to South Dakota.
Q When he first called and you asked about California this was just general background knowledge, you didn't have the Betty Bullock case yet?
A It was background knowledge.
Q And you did not have a Bullock case yet?
A No.
MR. STOEVER, JR.: Objection. Vague and ambiguous.
BY MR. PIUZE:
Q It is a true statement, you'd never heard of Betty Bullock?
A That's correct.
Q You never heard of Maurice Lighter --
MR. STOEVER, JR.: Objection.
BY MR. PIUZE:
Q -- at that point?
A Well, I --
MR. STOEVER, JR.: I'm sorry. I didn't hear the question.
BY MR. PIUZE:
Q You had never heard of Maurice Lighter?
MR. STOEVER, JR.: I withdraw the objection.
THE WITNESS: I had never heard of Maurice Lighter

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at that time.
BY MR. PIUZE:
Q When Dick Means called you?
A That's correct.
Q And when Dick Means died?
A I may have heard of Maurice Lighter by the time Dick Means died. I don't know.
Q If that's true you would have heard of Betty Bullock --
MR. STOEVER, JR.: Objection.
BY MR. PIUZE:
Q -- when Dick Means died, right?
MR. STOEVER, JR.: I think that misstates his earlier testimony.
THE WITNESS: No.
BY MR. PIUZE:
Q No?
A No.
Q You and Maurice Lighter were together before you got the Bullock assignment?
A I met with Maurice Lighter once before the Bullock assignment.
Q Anyway, did Dick Means ever provide you with anything?
A Yes.

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Q What?
A He sent me a -- copies of materials on California textbooks on smoking and health issues.
Q Did he tell you who had hired him?
A No, not to my recollection.
Q Did he tell you how he knew you existed?
A Not that I recall.
Q Did he tell you who suggested that he call you?
A Not that I remember.
Q All right. Thank you.
Any other academics you've contacted or who have contacted you on the smoking and health issue?
A There's, I believe, a historian -- there's an academic in the southeast and his last name is DeBocco.
Q Say it again.
A DeBocco. And I'm not sure how to spell it.
Q Okay.
A And I talked to him on the phone and he had some research on smoking and health, and I'm not sure whether he sent anything to me.
Q But he contacted you again?
A Yes, he did.
Q And did he tell you how he knew you existed?
A No, not that I would remember.

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Q Did he prepare anything for you?
A I don't believe so, but he may have. And if he did, it was something that I haven't look at in a long time.
Q Okay. Anyone else that you can think of now, academic people with whom you've been in contact in regard to your assignment on smoking and health?
A That's -- those are the people that I can recall.
Q Now, on this, I guess this is going to be Number 10, which is the Vanderbelt University archives.
(Plaintiff's Exhibit 10 was marked for identification by the Certified Shorthand Reporter.)
BY MR. PIUZE:
Q Have you looked at this stuff?
A Um-hmm.
Q What's in there, please?
A It's an abstract of news stories on smoking and health issues on the three network news shows from 1968 to the present.
Q Who told him to start in '68?
A I don't know. So Vanderbelt began collecting a complete collection of network news shows in 1968, I believe.

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Q Why do you believe that?
A Strikes me as being something that I've read. Perhaps in the introduction. I don't know.
Q Okay. Have you watched any of the tapes from these shows?
A Not systematically. Not systematically.
Q Where have you gotten the tapes of some of these?
A I think I saw many of the news shows, but I've not gotten tapes.
Q In other words, you saw them in real time?
A Yes.
Q So did you see Katherine Hearst describing her daughter as being chain-smoking and spaced out?
A I don't recall.
Q Okay. What's this, please?
A These are materials from the American for Non-smoker's Rights, which is called California for Non-smoker's Rights, dealing with ordinances in California and legislative bills that was a major part of their grass roots campaign against smoking in the 1970s and '80s.
Q Where did you get that from?
A At the files of the American for Non-smoker's Rights at the University of Californian, San Francisco.
MR. PIUZE: That's 11.

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(Plaintiff's Exhibit 11 was marked for identification by the Certified Shorthand Reporter.)

BY MR. PIUZE:

Q Did you go to Berkeley at all to do your research?

A Yes.

Q Did you visit the law school?

A No.

Q What are they smoking there nowadays?

A I don't know.

Q Here is the next group.

What is that?

A Just some information on the 1964 Surgeon General's report, some background information.

Q Where did you get it from?

A Uh, the web site of the CDC in Atlanta.

Q You got this yourself?

A Yes, I believe so.

Q And how did you choose what to get and what not to get?

A Actually, the material from the CDC is on top, and also included is a section from -- I believe it's the 2000 Surgeon General's report. And in the Surgeon General's report they often go back and give a short

history of the Surgeon General's report that preceded it,

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and I thought that was a particularly good summary of the impact of the 1964 Surgeon General's report.

Q Do you think cigarette smoking is higher in the military than in the population at large?

MR. STOEVER, JR.: Objection. Calls for speculation.

If you know.

THE WITNESS: I believe it has been, historically.

BY MR. PIUZE:

Q That's what the Surgeon General says, anyway, right?

A Yes.

MR. PIUZE: So this little group here is 12.

(Plaintiff's Exhibit 12 was marked for identification by the Certified Shorthand Reporter.)

BY MR. PIUZE:

Q What's this next group, please.

A It's also from the University of San Francisco, University of California, San Francisco, archive, and these are materials of the Prop 99 and how the initiative operates in terms of the institutions involved.

MR. PIUZE: 13. Meaning that's Exhibit 13.

///

(Plaintiff's Exhibit 13 was marked for identification by the Certified Shorthand

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Reporter.)
BY MR. PIUZE:
Q Here's the next one. Please tell me what that is.
A These are annual reports from the American Cancer Society on their anti-tobacco efforts.
Q When -- did you ever read those?
A Uh, I've read those in the last several months.
Q Okay. Hadn't read them until the last several months?
A I've read some of them before.
Q When?
A A year or two ago.
Q Okay. Before you were hired by Philip Morris you'd never read any of this stuff, had you?
A No.
Q What comes after 13?
A 14.
Q So that's Exhibit 14.
(Plaintiff's Exhibit 14 was marked for identification by the Certified Shorthand Reporter.)

BY MR. PIUZE:
Q Okay. What's that, please?
A Report of cigarette smoking and health in 1963

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produced by the State of California, Department of Public Health.

Q And where did you get this from?

A I got that through the inter library loan somewhere in the California State University system.

Q How did you even find it within the California State University system library?

A The State University system has a very good web engine for finding documents, and I read about the document and searched it in a web search and found out where it was.

Q When did you first know that document existed?

A I'm not sure exactly. Sometime in the last five months.

MR. PIUZE: That's Exhibit 15.

(Plaintiff's Exhibit 15 was marked for identification by the Certified Shorthand Reporter.)

BY MR. PIUZE:

Q Here's the next one.
What's that, please?

A It's a report to the governor on cigarettes and smoking in California, produced in 1964.

Q Who was the governor?

A Pat Brown.

Q Okay. Who wrote it?

A It's an advisory committee.

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Q Who was on it?
A Oh, a number of people. Max Rafferty, R-a-f-f-e-r-t-y, State Superintendent of Schools, among other people.
Q Did you ever make any attempt to find out what the cigarette industry did to try to counter reports such as Exhibit 16, the reports to the Governor in 1964.
(Plaintiff's Exhibit 16 was marked for identification by the Certified Shorthand Reporter.)
MR. STOEVER, JR.: Objection. Assumes facts not in evidence. Lacks foundation.
If you know.
THE WITNESS: I don't know.
MR. PIUZE: Okay.
Q Would you like to know?
A I don't think that it would be central to my issue of public awareness of smoking and health issues.
Q This next group of documents, including your home phone number, I won't give this out to the court reporter --

A Yes.
Q -- is your bills, right?
A And correspondence between Arnold & Porter and myself.
Q So we'll mark that Exhibit 17.

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A Yes.
(Plaintiff's Exhibit 17 was marked for identification by the Certified Shorthand Reporter.)
BY MR. PIUZE:
Q What did they ever write to you?
A It would be on top, any correspondence I received. There are some brief letters.
MR. PIUZE: Thomas Stoever, Jr., keeps sending you money all the time.
MR. STOEVER, JR.: You have to ask.
BY MR. PIUZE:
Q Is that true, you have to ask for money before he sends it to you?
A Yes.
Q Could you get some for me next time?
I'm going to put all this stuff back in this box. That's the little box. And we're going to go on to the big box now.
Do you know John Carlton?

A I've met John Carlton.
Q You wouldn't think he'd threaten me, would you? I think Mr. Stoever would. I don't think Mr. Carlton would.
What is that?
A What is what I'm looking at?

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Q Yes, sir.
A These are part of the collection of newspaper articles. These are articles from the Santa Ana Register.
Q So this would have been articles that deal with the 47 topic areas that you picked?
A Uh, yes. And some additional articles on some other subjects.
Q And who chose the additional articles?
A I did.
Q And what would those be, if they don't fit in the 47 categories?
A Well, in 1995 I went through the Santa Ana Register to see what -- how many articles there are and what the articles were on smoking and health issues, and those would be included.
Q When was that?
A 1995.
Q 1995?
A Yes.

MR. STOEVER, JR.: I'm going to object. Vague and ambiguous. I think there is a miscommunication here.
MR. PIUZE: Tell us about it.
MR. STOEVER, JR.: I think, Mr. Snetsinger, I think you went through the year 1995. I think Mr. Piuze's questions assumed that you did it in 1995. Maybe there was a miscommunication.

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BY MR. PIUZE:
Q You wouldn't have done that in 1995 without telling me about it, would you?
A No.
Q How about this: In a virtual rerunning of 1978, California voters have rejected a ballot measure to separate smokers and non-smokers. What was that all about?
Do you know?
A It's Proposition 10, initially on the 1980 California ballot.
Q What was it supposed to do?
A Uh, Clean Air Initiative. It would have provided for a -- restrictions in smoking in public areas.
Q Do you think nicotine is addictive?
That is not a scientific opinion, by the way. It's out of your area. But based on the reading that you've done, do you have an opinion whether it's addictive

or not?
MR. STOEVER, JR.: Objection. If you're asking for a personal opinion, you can answer.
THE WITNESS: As addiction is often understood, my personal opinion is that it likely is, or is a very hard habit to break.
BY MR. PIUZE:
Q So what kind of stuff were you looking for

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going back in ’95 that didn’t fit in your other category?
A I was interested to see how many articles -- to see how many articles there were in one year, on smoking and health, in the Orange County Register.
Q How many?
A I believe it was over -- I don’t remember the exact figure, but I believe it was over 80.
Q In what year was that?
A 1995.
Q Why did you choose that year?
A A random choice in the 1990s.
Q Random?
A Yes.
Q Okay. That becomes Exhibit 16. That is what?
(Plaintiff’s Exhibit 16 was marked for identification by the Certified Shorthand Reporter.)

BY MR. PIUZE:
Q What’s that?
A Articles from Reader’s Digest editorials.
Q Where did you get them?
A My research assistants in Irvine?
MR. PIUZE: That’s 17.
(Plaintiff’s Exhibit 17 was marked for identification by the Certified Shorthand Reporter.)

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BY MR. PIUZE:
Q What years did you choose?
A 1950 to the present.
Q Did you know the Reader's Digest used to be basically controlled by one small family?
A I think I have heard that.
Q Lila and DeWitt Wallace?
A Yes.
Q And it became an organ for their own personal beliefs?
A I don't know that.
Q It became an organ for their own personal beliefs about tobacco.
Did you know that?
MR. STOEVER, JR.: Objection. Assume facts not in evidence. Lacks foundation. Calls for speculation.

THE WITNESS: I have not heard that.
BY MR. PIUZE:
Q They didn't like smoking at all.
Here's 18.
(Plaintiff's Exhibit 18 was marked for identification by the Certified Shorthand Reporter.)
BY MR. PIUZE:
Q What is this?
A Look magazine.

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Q Why are these here, the Look magazines?
A Because they deal with smoking and health issues.
Q Did you make any copies of advertisements in these magazines?
A No.
Q Tobacco advertisements?
A No.
Q Why not?
A I didn't think that they were credible public awareness items. They're put there because someone paid to put them there.
Q Who do you think paid to put them there?
A The tobacco industry is putting them there.
Q And what do you think the purpose is?

A I don't --
MR. STOEVER, JR.: Let me note an objection. This is beyond the scope of this witness' testimony.
If you know, if you have a personal opinion, you can give it.
BY MR. PIUZE:
Q Well, do you know anything about the reading habits of people, generally?
A Maybe a little something.
Q Do you think that most people like to look at pictures or read for content more when they're thumbing

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through a magazine?
A When they're thumbing through a magazine?
MR. STOEVER, JR.: Objection. Calls for speculation.
If you know, you could answer.
THE WITNESS: I don't know.
MR. PIUZE: Okay. Here's Number 19.
(Plaintiff's Exhibit 19 was marked for identification by the Certified Shorthand Reporter.)
BY MR. PIUZE:
Q What is that?
A Life magazine articles on smoking and health, in Life magazine, starting in 1950.

Q Is there one tobacco ad in this group anyplace?
A Not in the group of Life magazines, no.
MR. PIUZE: 20.
(Plaintiff's Exhibit 20 was marked for identification by the Certified Shorthand Reporter.)
BY MR. PIUZE:
Q What's 20?
A I will have to take a look.
These are additional materials from anti-smoking organizations, with an emphasis here on the

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American Cancer Society. These would be materials -- part of this is an oral history by the California Division of the American Cancer Society, and the other documents are from the archives of anti-smoking organizations.

Q How did you even know those things existed?

A I think I learned in different ways, on different documents.

Q When did you first see those documents?

A I can't tell you, exactly.

Q Okay. Here's Number 21.

(Plaintiff's Exhibit 21 was marked for identification by the Certified Shorthand Reporter.)

BY MR. PIUZE:

Q Why are you quoting Arthur Anderson?

A This is a web source from the American Heart Association establishing the size of the organization and the recent budget. Arthur Anderson is involved in the accounting verification of the budget.

Q Why in the world is it important to anyone what the American Heart Association's budget is?

A To establish the size and the scope of the organization.

Q What's the size and the scope of the organization?

A It's a bit under, if I remember correctly,

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under a billion dollars a year of the budget, on the national level.

Q Do you believe Arthur Anderson?

A I do.

MR. STOEVER, JR.: As long as the audit isn't being done by the Houston office.

MR. PIUZE: It's actually done by the Dallas --

THE WITNESS: Dallas office.

BY MR. PIUZE:

Q Why is this at all significant to any opinions you might have on Betty Bullock's case?

A Establish the credibility and the size of the

organization, of a major public health organization.

Q All right. Ever seen a budget for Philip Morris?

A No.

Q Ever seen the advertising budget for Philip Morris?

A No.

Q Or the tobacco industry?

A No.

Q What is the annual budget for the American Heart Association?

A At the national level, under a billion.

Q What was the advertising budget? Did it have an advertising budget?

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A I don't know. I don't know.
Q Do you what the annual advertising budget of to tobacco industry is for cigarettes --
MR. STOEVER, JR.: Objection. Asked and answered.
BY MR. PIUZE:
Q -- in America alone?
MR. STOEVER, JR.: Objection. Vague and ambiguous.
If you know, you could answer.
BY MR. PIUZE:
Q How does $8 billion sound? Sound like a lot?
MR. STOEVER, JR.: Objection.

THE WITNESS: I don't know.
BY MR. PIUZE:
Q What is Number 22?
(Plaintiff's Exhibit 22 was marked for identification by the Certified Shorthand Reporter.)
BY MR. PIUZE:
Q What's that?
A Similar materials from the American Lung Association.
Q For similar reasons?
A Yes.
Q Number 23, what's this?
(Plaintiff's Exhibit 23 was marked for identification by the Certified Shorthand

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Reporter.)
THE WITNESS: Materials on the grass roots organization in California, anti-smoking organization. Americans, and in this case, Californians for Non-smoker's Rights. That's in the 1980s.
BY MR. PIUZE:
Q What about it?
A It's an active organization in California in the anti-smoking campaign, and it contains materials about their program and their activities.

Q What does this have to do with Betty Bullock?
A Betty Bullock was effected by private and public, anti-public health organizations and anti-smoking groups.
Q How was she effected even by one word of what's written in Exhibit 23?
A She was effected in part because the campaign and American Non-smoker's Rights headed the organization for ordinances in Orange County. They were major movers.
Q Haven't we been looking at ordinances, and not Exhibit 23?
A I believe there are ordinances in the earlier documents.
Q Why are we looking at 23? What does this have to do with Betty Bullock's case?
MR. STOEVER, JR.: I'll object. It's been asked and

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answered.
THE WITNESS: I think this provides information on the activities of the organization and its campaign, in particular, for ordinances. Here's a model anti-smoking ordinance that's included.
BY MR. PIUZE:
Q Never made it into law. What does it have to do with Betty Bullock?
A But the ordinances were turned into law. This

model ordinance was -- became adopted, a variance of it.
Q I understand that this is sort of going around the track a second time. If it was adopted and if you show me the ordinance that was an ordinance maybe Betty Bullock would have known about, okay? As far as 23 is concerned, model ordinances, ordinances that didn't make ordinances, discarded ordinances, broken ordinances, what does that have to do with Betty Bullock?
A Well, I think it helps explain the structure and type of program that organizations like California for Non-smoker's Rights does have. And I think it does have an effect on people in California because they became an influential group in changes in attitudes toward smoking, and things like ordinances.
Q Who was on the other side of changes and attitudes towards smoking?
MR. STOEVER, JR.: Objection. It's vague and

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ambiguous. Calls for speculation. If you know.
THE WITNESS: I don't know all the players on the other side.
BY MR. PIUZE:
Q Well, who do you think was on the other side?
A Well --
MR. STOEVER, JR.: Again, I'll object. Again, calls for speculation. It's vague and ambiguous.

THE WITNESS: I don't know.
BY MR. PIUZE:
Q Would you think maybe it would be the point that they are making billions of dollars a year off of selling cigarettes?
MR. STOEVER, JR.: Objection. Argumentative. Assumes facts not in evidence. Lacks foundation.
BY MR. PIUZE:
Q What do you think?
A I don't know.
MR. PIUZE: This is 24.
(Plaintiff's Exhibit 24 was marked for identification by the Certified Shorthand Reporter.)
BY MR. PIUZE:
Q What's that?
A This is an anti-smoking organization called GASP, G-A-S-P, Group Against Smoking Pollution.

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Q What? Why do we have that?
A Again, it's an anti-cigarette grass roots organization in California in the 1970s.
Q What does Betty Bullock know about that?
A I think, again, it's part of a movement that did effect Betty Bullock.
Q Do you have a clue whether or not she'd ever

heard of GASP her whole life?
A I don't know.
Q When did you first hear of GASP?
A In the early 1970s.
Q You did?
A Yes.
Q Why?
A I knew it was an organization that campaigned against smoking.
Q You knew that in the early '70s?
A Somewhat early '70s.
Q When?
A Maybe -- sometime in the first half of the 1970s.
Q Okay. How come there's nothing in here from before 1976, then, sir?
A I believe that that is -- the intent was representative sample of some of their newsletters and some of their statements and purpose and wasn't intended to have

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a full collection of GASP materials.
Q So if I go to the trouble to find out when this organization was first founded, you're assuring me it would definitely be in the early '70s because you knew about it back then?
MR. STOEVER, JR.: I think he said in the first half

of the '70s.
MR. PIUZE: Right.
THE WITNESS: The question is if I went to -- I'm sorry. Can you repeat the question?
MR. PIUZE: Sure.
Q If I went to look to see when this organization was founded, there's no question it would have been founded before 1975 because you remember seeing it in the early '70s?
A Yes.
Q Okay. What's number 25?
(Plaintiff's Exhibit 25 was marked for identification by the Certified Shorthand Reporter.)
THE WITNESS: Materials on ordinances, and not only in California, but materials in the United States, anti-smoking ordinances.
BY MR. PIUZE:
Q Where did you find those?
A The materials on national ordinances, and in

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comparing them to California, I found in the National Library of Medicine in the National Institute of Health in Bethesda, Maryland. And the collateral material here I got from the files of Californians for Non-smoker's Rights at the University of Southern California of San Francisco.

Q When is the last time Betty Bullock went to Bethesda, Maryland?

A I have no clue.

Q When is the last time Betty Bullock went to the University of Southern California of San Francisco library?

A I don't know.

Q What's number 26?

(Plaintiff's Exhibit 26 was marked for identification by the Certified Shorthand Reporter.)

THE WITNESS: Number 26 are materials from the California State Department of Education dealing with curriculum requirements and mandatory textbooks assigned to elementary, junior high and high schools in California in the 1970s and -- 1970s and 1980s.

BY MR. PIUZE:

Q What in the world does that have to do with Betty Bullock?

A Betty Bullock had a daughter in public school, I believe, in the 1970s and '80s.

Q What year did she get out of school?

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A 1978.
Q The daughter did?
A Yes.
Q Okay. What did the daughter learn about

smoking in school?
A She learned that -- I believe that she would have learned that smoking was a health risk and was dangerous.
Q That’s what you believe?
A That’s what she said in her deposition.
Q Okay. What did she do about that?
A She talked to her mother about it.
Q What did she say?
A What did who say?
Q The daughter, to the mother.
A The daughter told her mother that smoking posed a health risk, was bad for her health, and that she should not be smoking.
Q What did the mom say?
A That -- different things at various times. One that comes to mind is she told her that it wasn’t the daughter’s place to tell her that. It wasn’t her -- the daughter’s decision.
Q What else did she say?
A I don’t recall right now what else.
Q Don’t you recall her saying that she had faith

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in American enterprise and she was sure that the people that were running the tobacco companies weren't lying to her?

MR. STOEVER, JR.: Assumes facts not in evidence.

BY MR. PIUZE:

Q Do you remember her saying that in her deposition?

A I remember something to that effect.

Q What did you think about that, when she was talking about the fact that she was an American citizen and believed in the system and she believes that American citizens working for major corporations wouldn't lie to her about life and death issues and her health?

MR. STOEVER, JR.: Objection. Calls for speculation.

If you understand the question, you can answer it.

THE WITNESS: I don't know if it's naive. I did read that she said words to that effect.

BY MR. PIUZE:

Q What did -- did you believe them?

A Believe whom?

Q The tobacco industry when they said there was a controversy? You know, that the tobacco industry said there was a controversy about all this.

A I know that the tobacco industry said that

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there should be more research.
Q Why should there be more research?

A They said that the case had not been proven that cigarette smoking caused cancer, certainly in the late 1950s and into the 1960s.
Q Didn't they say that until the 1970s?
A And, yes, into the 1970s.
Q And what about into the 1980s?
A Yes.
Q Okay. Did you believe that?
A Did I believe that they --
Q That they were telling the truth?
A Yes. I was not a smoker, so I was not current on following this maybe as closely as some people. I believed, and I'm not a medical doctor or scientist, I personally believed that the case had been made that smoking caused lung cancer.
Q Did you think that they were making it up? They, the tobacco industry, in the '50s and '60s and '70s and '80s, when they were saying that more research was needed and they weren't sure that tobacco caused lung cancer, did you think they were lying?
MR. STOEVER, JR.: Objection. Vague and ambiguous. Calls for testimony beyond the scope of this witness' expert designation.
BY MR. PIUZE:

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Q Go ahead.

MR. STOEVER, JR.: And I think it calls for speculation. It calls for speculation.

THE WITNESS: And the question is?

BY MR. PIUZE:

Q Do you believe they were lying?

A I don't know.

Q You don't know what you believed?

A I believe that they -- I believe that the tobacco industry continued to side with the minority, the growing minority point of view of how clinched the case was that cigarette smoking caused cancer and there were scientists and research reports I know of, into the 1980s, maybe beyond that, that continued to argue that indeed there was more research needed before this could be concluded as a fact, and that the tobacco industry sided with that opinion.

Q Did you believe that they were lying?

MR. STOEVER, JR.: Objection. Asked and answered. It calls for speculation. I think it's argumentative. It's beyond the scope of this witness' designation.

THE WITNESS: That isn't within the framework of what I would have seen as the question. I believe that I've answered the question.

BY MR. PIUZE:

Q No, I know you haven't. You can either say,

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yes, I believe they were lying, or no, I didn't believe they were lying, or I don't know, but you haven't said any of those.

MR. STOEVER, JR.: Is there a question pending?

MR. PIUZE: Yeah.

Q Did you believe they were lying?

MR. STOEVER, JR.: Same objections. Calls for speculation.

If you know, fine. If you don't know, that's fine, too. Mr. Piuze says he doesn't want you to guess.

THE WITNESS: It wasn't a question that I asked and answered myself, uh, whether the tobacco industry was lying about it. Again, I believe that the tobacco industry was continuing to hold to what was a minority position in the public health and scientific area.

BY MR. PIUZE:

Q Betty Bullock is on record as saying she did not think they were lying, isn't she?

A In her deposition she does say that she trusted the -- she -- can you repeat the question, please?

Q Betty Bullock is on record as saying she did not believe that the tobacco industry was lying. They made these assertions about the case hadn't been proved and more research was needed and no one knew for sure that tobacco caused lung cancer.

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A I believe she did say that.
Q So she bought the tobacco industry's line, correct?
MR. STOEVER, JR.: Objection. Calls for speculation. Vague and ambiguous.
THE WITNESS: Yeah. Can you repeat the question again?
MR. PIUZE: Sure.
Q She bought the tobacco company's line, correct?
MR. STOEVER, JR.: Again, vague and ambiguous. Calls for speculation.
If you know what Ms. Bullock bought --
THE WITNESS: Yeah. I don't know.
BY MR. PIUZE:
Q Well, given all of the research you've done, to your knowledge, that was out there, and given all of your reading on what Ms. Bullock was exposed to, where else would she have gotten the idea that the case was not proved; that more research was needed, and that no one really knew that tobacco caused lung cancer?
A I don't know.
MR. STOEVER, JR.: Well, I'm going to object. I think it assumes facts not in evidence. You're assuming this witness believed Ms. Bullock when she gives that

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testimony. I believe it calls for speculation from this witness.

If you can answer, go ahead.

THE WITNESS: I don't know.

BY MR. PIUZE:

Q That's an interesting question. Of course it's not a matter of expert opinion, but I guess I'd like to know. Did you believe Ms. Bullock when she said that she believed the tobacco industry?

A I believe that Betty Bullock knew of the health risks of smoking.

Q Answer my question.

Did you believe that Ms. Bullock was not telling the truth when she said she thought the tobacco industry was telling the truth?

MR. STOEVER, JR.: Objection. It's a different question, and it's argumentative.

THE WITNESS: I don't know.

BY MR. PIUZE:

Q That's not a different question, but I'll get back to that in a minute.

Do you believe that Ms. Bullock was lying when she said that she believed the tobacco industry wasn't lying?

A I don't know.

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Q Did you believe that the tobacco industry knew the health risks of smoking?
MR. STOEVER, JR.: Objection. I believe it's beyond the scope of this witness' expertise. Calls for speculation.
THE WITNESS: I don't know.
BY MR. PIUZE:
Q In the '50s, do you believe that the tobacco industry knew the health risks of smoking in the 1950s?
MR. STOEVER, JR.: Same objection. Beyond the scope of this witness' designation today.
THE WITNESS: I don't know.
BY MR. PIUZE:
Q Do you believe that the tobacco industry knew the health risks of smoking in the 1960s?
MR. STOEVER, JR.: Objection. Calls for speculation. Beyond this witness' designation.
THE WITNESS: I don't know.
BY MR. PIUZE:
Q Do you believe that the tobacco industry knew the health risks of smoking in the 1970s?
MR. STOEVER, JR.: Objection. Calls for speculation. Beyond the scope of this witness' expert designation.
THE WITNESS: I don't know.

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BY MR. PIUZE:
Q Did you believe that the tobacco industry knew the health risks of smoking in the 1980s?
THE WITNESS: I don't know.
MR. STOEVER, JR.: Same objections.
BY MR. PIUZE:
Q Do you believe that the tobacco industry knew the health risks of smoking in the 1990s?
MR. STOEVER, JR.: Same objections.
THE WITNESS: I don't know.
MR. PIUZE: Here's number 28.
(Plaintiff's Exhibit 28 was marked for identification by the Certified Shorthand Reporter.)
BY MR. PIUZE:
Q What's number 28?
A These are polling data on smoking and health issues.
Q Yeah?
Well, what's number 27, then?
A California poll.
(Plaintiff's Exhibit 27 was marked for identification by the Certified Shorthand Reporter.)
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BY MR. PIUZE:

Q What's the California poll?

A It's a California specific polling organization that specifically polls Californians alone on issues, on a variety of issues.

Q Okay. How often?

A Uh, do they poll in general, or on smoking issues or --

Q How often do they have a California poll? Once a month? Once a year? What?

A Uh, I don't know the specific number, but I believe that it would be more than once a month.

Q Okay. Is it still going on?

A Yes.

Q Who pays for it?

A It's a private company. They -- I don't know how the funding works, but --

Q They sell their stuff to people?

A I don't know. I don't know. I see the California poll in the newspapers. I assume the newspapers.

Q Right. Okay. Anyway, why do you have such a tiny stack of stuff? Why is it such a short stack of documents? If there are so many field polls, why is it such a skinny, skinny stack of polling stuff?

A These are the relevant polls that I believe the

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field ran on smoking and health in California.
Q Why do you believe that?
A Because I looked at the polls by California and these are the ones that seemed relevant to me.
Q So you went through all the California polls from day one?
A I tried to study as many field polls that I could get, and I believe I did look at the run of them from maybe the mid 1970s on.
Q Why did you start at the ’70s?
A I don’t have access to polls before, California polls before the mid ’70s.
Q Why?
A I didn’t find them.
Q Where did you look?
A Libraries.
Q Arnold & Porter could have done that for you, don’t you think?
A I don’t know.
Q It comes out more than once a month, comes out once a month, that’s 30 years of the stuff, at least 350 different field polls, right?
A I don’t know how many polls.
Q Did you look all the way from the ’70s, all the

way up through the ’90s?
A Yes.

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Q Went through all of them?
A I believe so. I tried to.
Q And these, Exhibit 27, is everything that you've got that had to do with smoking?
A It's what -- I believe those are the polls that deal with the public awareness issues on smoking and health.
Q There aren't any others?
A Uh, those are the polls that I thought were important to my study.
Q But are there any others that didn't find their way into this exhibit?
MR. STOEVER, JR.: Are you asking about any other field polls in general or any others that dealt with smoking and health?
MR. PIUZE: Smoking and health, obviously.
THE WITNESS: I believe those are the polls that deal with smoking and health.
BY MR. PIUZE:
Q You believe those are the only ones?
A I believe so.
Q Okay. Now, 28, you already told me those are more polling data?

A Yes.
Q And from whom? From a variety of sources?
A Dan Ropper.

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Q Ropper?
A Ropper.
Q How did you choose which ones to include?
A I applied the test that if they dealt with public awareness issues of smoking and health, I included them.
Q I notice the ones on top are off a web site from the University of North Carolina, from the Howard Odom polls.
A There's a variety of different sources in this stack.
Q Is there anything else there from Slovak?
A Slovak? I don't know.
Q Ever heard of Slovak?
A I don't believe so.
Q Okay. Is there anything there from Vezquez?
A No, I don't believe so.
Q Who is W. Kipp?
A W. Kipp? He's an economist at Harvard.
Q How do you know about him?
A I've come across him at secondary sources and I'm not sure where else.

Q What sources?
A I don't know exactly.
Q So what are all these saying in 28?
A They say a lot of different things.

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Q Like?
A They track the number of Americans who smoked, attitudes towards smoking, public awareness of health and smoking issues.
Q 29.
(Plaintiff's Exhibit 29 was marked for identification by the Certified Shorthand Reporter.)
BY MR. PIUZE:
Q National Senior Scholastic in the World. How did you ever hear of this?
A Senior scholastic is largest private publisher of classroom materials in America.
Q Why would you come across that site? Why would that happen?
A Somebody sent me these, this particular issue, and I'm trying to think. I think it may have -- this -- I think it may have been this fellow DeBocco who did a study of Senior Scholastic.
Q Before he sent you these pieces of paper that I marked as 29 you had no clue that some obscure magazine in

1963 had published something about what school kids thought of smoking?
MR. STOEVER, JR.: I object to the characterization as obscure. And, again, it's vague and ambiguous.
THE WITNESS: I read Senior Scholastic in my

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school.
BY MR. PIUZE:
Q Did you read this one?
A I believe it's too late. What is the date, January '63? No. I was in college.
Q Before someone sent this to you, you had no idea that this article existed, right? Before someone sent this unsolicited article to you, you had no idea this article existed?
A I don't think it was unsolicited.
Q How was it, then?
A I believe I talked to -- I know I talked to someone. I believe I talked to DeBocco on the phone, and he said he had worked with Senior Scholastic and would I be interested in seeing some of the issues.
Q He offered it to you?
A Yes.
Q That's unsolicited, right?
A Uh --
MR. STOEVER, JR.: If you agree with the definition,

that's fine. If you don't know, that's fine.
THE WITNESS: Yes.
BY MR. PIUZE:
Q So I'm actually taking the deposition of a collective nine historians working for the tobacco industry here today?

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MR. STOEVER, JR.: Objection. Argumentative.
BY MR. PIUZE:
Q You guys are pooling your resources, aren't you?
A I don't know the situation of these historians.
Q Did you know that Professor Cobbs-Hoffman went all the way back to Christopher Columbus?
A I'm sorry?
Q Her analysis went back to Christopher Columbus.
A Her analysis?
Q Of what everyone knew about smoking.
A I didn't know that.
Q And before Christopher Columbus, which is pretty hard to do, because most Europeans didn't know about smoking before Christopher Columbus, did they?
A I don't think they could have.
Q What year did the Titanic sink?
A I believe it was around 1912 or 1913. 1912.

Q How many lives were lost in the Titanic?
A I don't know. I don't know.
Q Under 2,000?
A I just don't know.
Q So 30,000. The California tobacco control program reduced -- excuse me.
Has the California tobacco control program

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reduced smoking -- what is that?
A It's an article in a medical journal on the effect of the -- of the Prop 99 anti-tobacco programs.
Q And where did you get that?
A Probably at Cal Poly.
Q This is something you looked up with your team or something that was sent to you by someone else?
A Journal of American Medical Association. I believe I got this at Cal Poly.
Q Okay. Thanks a lot.
Why is it significant, if at all, to you?
A First of all, it's more than one article. I think it's relevant in reflecting on the significance of Prop 99 and public awareness on smoking and health.
Q Cigarette smoking prevalence in California is extremely low compared to most states?
A Yes.
Q Are there any states with less per capita

smoking than California?
A Yes.
Q Is there only one?
A Yes.
Q Are there strong religious overtones in that state to account for the small amount of people that smoke?
MR. STOEVER, JR.: Objection. "Religious overtones"

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is vague and ambiguous.
If you know.
THE WITNESS: I don't know.
BY MR. PIUZE:
Q It's Utah, right?
A Yes.
Q And part of the teachings of the Mormon Church is don't smoke, right?
A Yes.
Q Putting that aside temporarily, what's the current smoking rate in California?
Do you know?
A That's broad. Everyday smokers? Smokers who smoke once a month or -- there are different types of smokers.
Q Regular smokers.
A Regular -- see, I don't know what the term

"regular" means there. It varies, depending on the criteria.
BY MR. PIUZE:
Q Heavy smokers.
A Meaning everyday smokers? Perhaps about 11 percent.
Q 11 percent?
A 11 percent.
Q Where do you get that from?

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A From the tobacco control sections of the Department of Health Services in Sacramento.
Q How many people live in California?
A 34 million, perhaps.
Q So there's only under four million regular smokers in California?
A I don't know --
MR. STOEVER, JR.: I'm going to object as vague and ambiguous. We're using terms here, regular and heavy interchangeably, and I'm not sure that it's consistent.
BY MR. PIUZE:
Q Good point. I apologize. We're on heavy. That is what we're using.
A You said heavy.
Q All right.
A I don't know what the definition -- I don't

know what your definition of heavy is, and I don't know if I've ever seen a statistic on, quote, "heavy smoking," close quote.
Q You're talking about daily? What is it that the California Department of whatever has reported on for 11 percent? What are they reporting on?
A Everyday smokers.
Q So under four million people in California are everyday smokers?
A Apparently. According to the survey.

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Q Okay. And what about in the remainder of the United States? What's the average?
A You know, I don't want to mix apples and oranges here. What I saw in the web site was California specific, and they didn't compare it with the rest of nation. I'm worried that nationally I'm going to be comparing two different things. I know that the CVC web site projects the national smoking average is about 23, 24, 25 percent.
Q Of adults?
A Of adults.
Q When you were talking about 11 percent, you're talking about adults?
A Adults. Again, everyday smokers.
Q So has the California tobacco control program

reduced smoking?
A I believe it has.
Q Significantly, right?
A Uh, I believe it has significantly reduced it.
Q Okay. That was 30. 31, what's that?
(Plaintiff's Exhibits 30 and 31 were marked for identification by the Certified Shorthand Reporter.)
THE WITNESS: 31 is some charts on national smoking figures. The first represents a chart of the per capita cigarette consumption rate, peaking right about 1964, at

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the time of the Surgeon General's report, and going down from then. And the second is a conception data survey by the Center for Diseased Control in Atlanta.

BY MR. PIUZE:

Q Do you think there's any adults in California, as of 1990, that did not know the harmful health effects of tobacco?

MR. STOEVER, JR.: Objection. Calls for speculation, if you're asking if there's anybody.

But if you know, you could answer.

THE WITNESS: I mean, I don't know.

BY MR. PIUZE:

Q Was Betty Bullock particularly well-read, in your view?

A Betty Bullock was a reader.

Q That's not what I asked.

A Was she well-read?

Q Was she particularly well-read?

MR. STOEVER, JR.: Objection. Vague and ambiguous.

If you understand what he means you can answer.

THE WITNESS: I know that Betty Bullock is a reader, and she read a lot, but when you use the words "particularly well-read," I don't know really what you mean by "particularly." What are we comparing it to?

BY MR. PIUZE:

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Q Good point. I don't know. It's a good point.
A I believe she was well-read.
Q Okay. Why?
A Because of what she said in her deposition, and what her siblings said about her, how she read all the time. What did she do in her spare time? Her sister Carol says she read, and then she read some more.
Q When?
A Uh, I'm not sure on when that characterization was made, but I'm sure that that characterization was made.
Q Were they talking about when she was a kid, when she was a teenager?
A No, I don't believe so.

Q When she was an adult?
A As an adult.
Q In California?
A I believe so.
Q Okay. Do you believe that any adult who could read English in California, in the 1990s, would be aware of the health risks of tobacco?
MR. STOEVER, JR.: Objection. Again, it calls for speculation if you're asking about anyone. I don't know how he would know that.
THE WITNESS: I don't have any way of knowing.
BY MR. PIUZE:
Q So you're therefore telling me, without reading

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Ms. Bullock's deposition, you would have been unable to render any opinions about her?

MR. STOEVER, JR.: Objection. I think that mischaracterizes his testimony. He said he read much more than Ms. Bullock's deposition.

If you can remember the question, you can answer.

THE WITNESS: What was the question again?

BY MR. PIUZE:

Q You're telling me, therefore, that without having read the background information on Ms. Bullock, individually, you wouldn't be able to offer any kind of

opinions?

A I --

MR. STOEVER, JR.: Objection. It mischaracterizes his testimony.

But if you could, you could answer.

THE WITNESS: I don't believe I've said that, or I don't believe I said that. I believe it's a hypothetical, because I do know something about Betty Bullock.

BY MR. PIUZE:

Q But I'm saying to you, if you didn't know anything about her, individually, you wouldn't be able to render any opinions here, right?

MR. STOEVER, JR.: Objection. I think it's been asked and answered. I think it's argumentative at this

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point, and I think he's testified.
MR. PIUZE: It hasn't been asked and answered. That's why I'm asking it again.
MR. STOEVER, JR.: When you say offer any opinions, do you mean opinions period, or any opinions about Betty Bullock, specifically?
MR. PIUZE: Any opinions about what she knew or should have known.
THE WITNESS: If I don't know anything about anybody, how could I?
///

BY MR. PIUZE:
Q That's what I'm asking.
A I could say assumptions, but not with any specificity.
Q If you don't know anything about someone, if you hadn't read anything about Betty Bullock, you wouldn't be able to offer any opinions about what she knew or should have known, right?
A I -- I would say that as a generally -- if I don't know -- if I didn't know something specific about someone, I couldn't, with any certainty, have an opinion on what they would know or wouldn't know.
Q I'm not talking about certainty. You injected that into the answer, not me.
Can you answer the question as I phrased it to

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you?
A If I knew nothing about Betty Bullock, I could not offer a judgment?
Q Any opinions on what she knew or should have known about tobacco.
A I don't believe that, no.
Q Why?
A If I knew nothing about someone, and they were in California, I would be able to offer some opinion about what they've been exposed to.

Q Why?
A Because I think I do understand and know something about the public awareness of health and smoking issues in the state.
Q All right. Having established that, I'm going go back to the last line of questioning. Every white adult in this state who could speak and read English, as of 1990, would understand the health risks of tobacco, right?
MR. STOEVER, JR.: Objection. Calls for speculation.
Again, you're asking what anybody knew, what everybody knew.
MR. PIUZE: That's right.
THE WITNESS: But I don't know what everyone would know.
BY MR. PIUZE:

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Q You just told me it wasn't hard for you. It didn't matter whether Betty Bullock did or didn't, because you knew what she's been exposed to.

MR. STOEVER, JR.: Objection. That's not what he said.

THE WITNESS: No. I can say that, collectively, given what people in California would know, the common assumption is that almost everyone would know about smoking and health risks. But I don't know about every one of 34

million people.

BY MR. PIUZE:

Q What does "almost everyone" mean, then?

A Uh, that I cannot say with certainty that every single person in California who could read and write would have to know. I don't know that. I couldn't know that.

Q 98 percent would?

MR. STOEVER, JR.: Objection. You're calling for speculation.

MR. PIUZE: I'm asking a question.

Q You've told me just a little while ago it doesn't matter individually what you knew about Betty Bullock, based upon what you know about the people of California. You told me that, didn't you?

MR. STOEVER, JR.: Objection. I think that mischaracterizes his earlier testimony. I think that what he said earlier is that he could offer some opinions about

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what Californians knew generally, from what was available in California. And you are asking a different question when you are talking about Betty Bullock, specifically. I think it mischaracterized his earlier testimony, and it's argumentative.

MR. PIUZE: All of which didn't go anywhere. It didn't have a beginning, end or meaning. What does all that mean?

MR. STOEVER, JR.: I think your question is argumentative and mischaracterizes his earlier testimony.

BY MR. PIUZE:

Q You can answer my question.

A I can't put a percentage on what percentage of people would know. I have no way of knowing.

Q Even with all the information that you have out there available to you?

A So far as every single person is concerned, even with all the information out there, I can't say that every single person --

Q Okay. That's why we're off of every single person and down to 98 percent.

Can you say that.

MR. STOEVER, JR.: Objection. Calls for speculation.

BY MR. PIUZE:

Q 98 percent of the people in California who

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could read and write would know of the health risks of tobacco starting in 1993? Disagree, or you don't know?
MR. STOEVER, JR.: Objection. Calls for speculation.
THE WITNESS: I don't know.
BY MR. PIUZE:
Q Why don't you know? Think about all the

information that was out there, sir. Why don't you know?
MR. STOEVER, JR.: Objection. It calls for speculation. I think it's an incomplete hypothetical. It's not consistent with the facts of this case.
THE WITNESS: I have no way of knowing.
BY MR. PIUZE:
Q Isn't it true that some of the stuff you're using to make opinions about Betty Bullock have to do with school programs that existed before she ever came to this state?
A School programs that were implemented before she came to this state?
Q Yes?
A Yes.
Q And some of the stuff that you're using here, that you brought with you, that you're using to figure out what Betty Bullock may or may not have known are obscure polls and documents like Exhibit 20, which you have absolutely zero expectation that Betty Bullock would have

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seen?
MR. STOEVER, JR.: I think it mischaracterizes the testimony in using the word "obscure." Vague and ambiguous.
BY MR. PIUZE:
Q Do you see Exhibit 20 in front of you?

A Yes.
Q You have no information that Betty Bullock ever saw those documents, right?
A Right.
Q Yet you brought them here because you think that somehow the trickle down effect of those documents into society must have trickled down to her?
A That's not --
MR. STOEVER, JR.: Objection. Vague and ambiguous.
THE WITNESS: That's not what I would say. She's part of a larger society. And what goes on in the society, even before we came into it, over years, has an effect on her.
BY MR. PIUZE:
Q Has an effect on everyone else that is part of that larger society today, too, right?
A Yes.
Q All 33 million Californians, right?
A Yes.
Q Now, using all of this information we've sort

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of taken a long time to go through, much of some you know darn well Betty Bullock never saw or had any expectation of seeing, you believe it's relevant to Betty Bullock because it was part of a general body of knowledge that was out there and would effect her currently?

A I do believe that.
Q And it was also a body of general knowledge that was out there effecting everyone else in California?
MR. STOEVER, JR.: Objection. Calls for speculation.
BY MR. PIUZE:
Q Correct?
MR. STOEVER, JR.: If you know about everybody else in California.
THE WITNESS: I don't know about everyone else in California.
BY MR. PIUZE:
Q You said because she was part of the society of California it would effect her, right? That's what you just finished saying.
MR. STOEVER, JR.: Go ahead.
THE WITNESS: Yes.
BY MR. PIUZE:
Q And I'm pointing out to you these are -- all these other nameless, faceless people who were part of the California society, too, by parity of reasoning, why

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wouldn't it effect them?
MR. STOEVER, JR.: Objection. He knows more about Betty Bullock than he does about everybody else in California.

If you can answer about everybody else in California society, go ahead.
THE WITNESS: I believe it effected California society overall. How any particular document or movement or ordinance would effect everybody else is beyond me.
BY MR. PIUZE:
Q Well, it's beyond how it effected Betty Bullock also, isn't it?
MR. STOEVER, JR.: It's inconsistent with his earlier testimony. Objection.
THE WITNESS: I don't believe so.
BY MR. PIUZE:
Q Why not?
A Because I believe that a lot of the documentation, a lot of materials that I've worked with -- one, they relate to Betty Bullock and where she lived, and what she read and how she lived or how they effected the society at large.
Q That doesn't relate to where she lived or what she was or anything like that, does it?
A I think it does, in that the American Cancer Society is an active anti-tobacco public health

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organization in California.
Q Yeah, so what. She was in California. So what, right?

A She lived in California.
Q What about the other 34 million people in California? It has the same effect, doesn't it?
MR. STOEVER, JR.: Objection. Calls for speculation.
If you know how the others in California were effected, you can answer.
THE WITNESS: I don't know how it effects any particular person out of the 34 million.
BY MR. PIUZE:
Q Including Betty Bullock?
MR. STOEVER, JR.: Objection. Misstates his early testimony.
BY MR. PIUZE:
Q Including Betty Bullock, right?
A No, because I believe that she, again, is a part of the overall society and is effected by the movement, grass roots, anti-tobacco movement, ordinances, and so on.
Q If her qualification as being effected is in California, then I'll put it back to you again, that holds true with anyone else in California, right?
MR. STOEVER, JR.: Objection. Misstates the

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testimony earlier. That's not the only qualification he gave for effecting Betty Bullock.

If you understand, you can answer.

BY MR. PIUZE:

Q Yeah, go ahead.

A Let me hear the question again.

Q You've got your hands on Exhibit 20?

A Yes.

Q As an example, right? Why did you bring Exhibit 20 here? Why did you bring that here today?

A To provide evidence on public health campaigns against smoking in California.

Q That evidence pertains to every single person who was around at the time in California, doesn't it?

A To the -- yes, to a degree it effects all of us collectively.

Q So if you think that should have effected Betty Bullock's perceptions and knowledge, that means it should have effected all the Californians' perception and knowledge?

MR. STOEVER, JR.: Objection. Misstates his earlier testimony. Again, I think he testified that Betty Bullock wasn't like all Californians, necessarily.

If you could answer, go ahead.

THE WITNESS: I believe that collectively it does effect all Californians, but, you know, I can't account for

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25 34 million individuals and how it effects them, obviously.

BY MR. PIUZE:
Q How many members are there in the state bar?
A I believe 170,000.
Q How many smoke?
A I don’t know.
Q Okay. What is a 31?
A 31 is a chart on smoking ratios in California and a chart on cigarette consumption data from the CVC.
Q Why is that here?
A To demonstrate the decline in part and to demonstrate the decline in smoking after the Surgeon General’s report in 1964.
Q What else? Is there any other part?
A The data from -- I believe this is from the American Lung Association, and it’s a chart, their CVC, again, to indicate the change in smoking patterns, in this case nationally -- and actually, in each case in this exhibit.
Q Do you have kids?
A No.
Q Do they smoke?
A I don’t have kids.
Q By the way, in the state bar do you know anything about the demographics of the state bar?
A A little bit.

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Q How many are over 50? What percentage, either in round numbers or percentages?
A I don't know that.
Q Have you ever seen any data of any kind, ever, having to do with smokers and lawyers in California?
A No.
Q Do you know if that exists?
A It probably exists. The information probably exists.
Q What about judges and smoking in California? Do you know if that exists?
A That I don't know if it exists.
Q Do you know if there is a correlation at all between the age of a judge smoker and the percentage of judge smokers?
MR. STOEVER, JR.: Objection. Calls for speculation. He's already said he doesn't know if any data exists.
BY MR. PIUZE:
Q The age of lawyer smokers and percentage of lawyer smokers?
MR. STOEVER, JR.: Again, calls for speculation.
THE WITNESS: Again, I don't know.
BY MR. PIUZE:
Q Age of smokers and percentage of smokers --

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A I don't know.
Q -- in the society as a whole?
A Age of smokers and --
Q Percentage of smokers.
MR. STOEVER, JR.: Objection. Vague and ambiguous.
BY MR. PIUZE:
Q Do you know if there's any correlation?
MR. STOEVER, JR.: It's vague and ambiguous.
BY MR. PIUZE:
Q I'll give you a running start.
With all of the new information and the Surgeon General's report and Philip Morris putting stuff on its web site saying this kills you and it's addictive, all that information, you'd think that less and less people -- the younger people would be smoking less and less, wouldn't you?
MR. STOEVER, JR.: Objection. Calls for speculation. Beyond the scope of this witness' designation.
THE WITNESS: I don't know. I don't know the figures.
Can we take a quick break?
(Brief recess.)
BY MR. PIUZE:
Q Here's what I don't understand. We just

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finished a break.
A Yes.
Q You're refreshed?
A Yes.
Q Ready to go?
A Yes, I am.
Q You've brought all this polling material here today, correct?
A Correct.
Q Some of it is the field polls having to do with smoking and health?
A Yes.
Q Some are Gallip polls?
A Yes.
Q Some of this is polls from Duke University, from the opposite side of the country?
A No. I believe they're polls, the Odom surveys are archived at the University of North Carolina.
Q Where were the Odom surveys done?
A I believe on the east coast, but I don't know where.
Q Anyway, what is the purpose of having all this stuff?
A One factor is to help me understand public awareness, since that's my issue, on smoking and health

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issues.
Q Right.
A To give me a good feel for what the public -- how the public attitudes are changing.
Q Some of these things are specific to California, right?
A Yes.
Q Now, when I asked you questions here, then, about what Californians generally knew or didn't generally know about the health risks of smoking, why is it that you told me you can't answer these questions if you have access to all these polls?
MR. STOEVER, JR.: Objection. I think that misstates the testimony, and mischaracterizes the question.
THE WITNESS: I believe I can answer questions about Californians and awareness on smoking and health issues.
BY MR. PIUZE:
Q Didn't you just finish ten minutes of testimony telling me you couldn't say what Californians thought, you have to know about them?
MR. STOEVER, JR.: Objection as argumentative, and misstates his earlier testimony. He can certainly tell you what's in the polls. I think the earlier questions were, I think, if 98 percent of Californians knew. If you'd like

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him to rely on the polls, that's fine. But I think you're misstating his testimony.

THE WITNESS: Can I hear the question?

MR. PIUZE: He has it both ways.

Q When I ask you questions about what Californians knew he objects because it wasn't Californians, it's Betty Bullock, and he knows Betty Bullock, but he doesn't know about other Californians. Now when you mentioned that you had access to polls, there is an objection there, too.

Did you notice that.

MR. STOEVER, JR.: Objection. It's argumentative.

BY MR. PIUZE:

Q Did you notice that?

A Yes.

Q Do you notice there is an objection every place?

A No.

Q So you really do have a lot of information about what Californians knew about health risks of cigarettes, right?

A I believe I have lots of information on the subject.

Q And when I ask you about 98 percent of the people, you can answer that question, can't you?

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MR. STOEVER, JR.: Objection. It misstates his earlier testimony and mischaracterizes your question.

THE WITNESS: I believe that I can assume an exact figure on what I would know 98 percent of the California public believed about smoking and health issues.

BY MR. PIUZE:

Q Well, you can use these polls to do it, can't you?

A I believe so.

Q Why? What do the polls tell you? Don't they tell you 98 percent of the Californians knew?

MR. STOEVER, JR.: I think you're mischaracterizing your earlier questions and misstating his earlier testimony. I think the question was 98 percent of the Californians that could read English. I'm not sure that's what the poll said.

If you understand, you can answer.

THE WITNESS: Can I hear the question?

MR. PIUZE: No.

Q After all this work that you've done on this case, I'm just flat out asking you here, starting in 1990, what percentage of adult Californians knew about the health risks of smoking?

A An overwhelming amount of Californians, but I cannot give you a single percentage on it.

Q Why?

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A Because I don't know a single percentage.
Q What do the polls tell you?
MR. STOEVER, JR.: Objection. If you want to take a look at the polls, you should feel free to do so.
THE WITNESS: The polls show that an overwhelming number of Californians knew about the health risks.
BY MR. PIUZE:
Q What does that mean, "overwhelming"? What does that mean?
MR. STOEVER, JR.: Again, if you want to refer to the polls, you may do that.
THE WITNESS: May I refer to the polls?
BY MR. PIUZE:
Q No. Right now, for my purposes right now, I just as soon that you don't, because you're ready to come in and give opinions, so shoot. What percentage knew? What's overwhelming? Is it 30? Is it 33? Is it 133? What is it?
MR. STOEVER, JR.: Objection. It's argumentative. It's compound. The documents are here. This isn't a memory test.
If you know, that's fine. If you don't know, that's fine, too.
THE WITNESS: These questions have been asked in the

poll, the field has asked the question. But the way that the responses are established doesn't permit -- doesn't

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make me feel comfortable with boiling it down to one figure, that 97, 98, 99 percent of Californians knew that there were serious health risks, because the polls don't -- haven't set the questions up in that way.

Q Is it important how polls set up questions?

A Yes.

Q Why?

A Because how a question is asked is often going to be reflected in the kind of answers that someone is going to give.

Q But those answers must show that.

A I believe they do.

Q Don't they take that into account before they ask the questions?

A Yes. But I think sometimes they ask different questions.

Q Different than what?

A Than other polls. So it's hard for me to say, come up with one definitive figure of the number of Californians who knew of risks of smoking and health in any period.

Q Well, let's have your best estimate, based on everything you've read and all of the work you've done,

$200,000 worth of work.

What percentage --

MR. STOEVER, JR.: Objection.

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BY MR. PIUZE:
Q -- of adult Californians knew of the serious health consequences of cigarette smoking in 1990?
MR. STOEVER, JR.: Objection. That's been asked and answered.
Again , if you want to refer to the box --
MR. PIUZE: No, this isn't him referring to the boxes. This is his opinion.
MR. STOEVER, JR.: Objection. It's in the polling material. He's been told he can't refer to it.
MR. PIUZE: It's not in the polling material. He's told you any given individual polling material isn't accurate. He just finished telling you that.
MR. STOEVER, JR.: I think what he told me is that the polling material doesn't -- I don't have the question that you posed. I don't think that you've accurately characterized his testimony.
If you know without being able to refer to the polls, that's fine. If you don't know, that's fine, too.
THE WITNESS: I don't know an exact percentage.
BY MR. PIUZE:
Q I'm not asking for your exact percentage. I'm

asking for your best estimate here. Where did Betty Bullock fit in one of 98 percent, one of 90 percent, one of 62 and a half percent? Where was she?
MR. STOEVER, JR.: Calls for speculation. He

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doesn't know exact percentages without referring to the polls.

MR. PIUZE: No, he didn't say that because he's not referring to the polls. You can keep mouthing it to yourself as much as you want. It doesn't make it true. He's got his own individual opinion. I'm not asking him to read something off of a poll.

Q This question is your own individual opinion. After all the research you've done, what percentage of all adult smokers in California in 1990 appreciated the serious health risks of smoking?

MR. STOEVER, JR.: Objection. I think it calls for speculation. If you formed an opinion without -- separate and apart from the polls, that's fine. If you don't know, that's fine, too.

THE WITNESS: I believe it's an overwhelming percentage of Californians, but I have never assigned a percentage to it, and I can't do it now.

BY MR. PIUZE:

Q Now's the time. See, "overwhelming" is a guess, possibly something could be conceivable. It's vague

and ambiguous, so I'd like a number.

A But I don't have a number.

Q Over 75 percent?

MR. STOEVER, JR.: Objection. Calls for speculation.

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If you know, that's fine. If you don't know --
THE WITNESS: I don't want to give -- I don't want to give a percentage number, because I don't have a percentage number that I'm moving towards because I've never concluded that question in this way.
BY MR. PIUZE:
Q Over 60 percent?
A Again, I could say the same thing.
MR. STOEVER, JR.: Objection. Calls for speculation.
BY MR. PIUZE:
Q Do you have an opinion?
A I have an opinion. I don't have an exact percent.
Q Is it over 60 percent, in your opinion?
A It would be over 60 percent.
MR. STOEVER, JR.: Calls for --
MR. PIUZE: Okay.
THE WITNESS: But I do not have an exact percentage.

BY MR. PIUZE:
Q Can you do better than over 60 percent?
MR. STOEVER, JR.: Objection. Asked and answered. It's argumentative.
BY MR. PIUZE:
Q Can you?

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A I don't want to move towards an exact percentage, because I don't have a figure.
Q Okay. I just want you to tell me what it means. If at the time of trial you say anything beyond it's more than 60 percent, I tell the judge, "Right here he couldn't do it because he was hiding the ball at the time of the deposition."
Are you comfortable ending this line of inquiry right here?
MR. STOEVER, JR.: That, I think, mischaracterizes his testimony. It's argumentative. I believe it's well beyond the scope of this witness' designation. He's produced to you polling information that he relies on. He's essentially going to be able to rely on these polls. You've prevented him from referring to the material here in the deposition. You've asked him not to refer it to here in the deposition and the record will reflect all of that.
If you have any idea about what Mr. Piuze is going to be asking at trial, you can answer. If you don't

know, you don't know.
THE WITNESS: I would say, given that I do not have an exact percentage, it's not how I thought about this. Can I talk about a field poll? Is that the question?
BY MR. PIUZE:
Q This is your opinion, sir.
A Right.

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Q I can't imagine it any more clearer than that. The field polls are written down there we'll see they say and we'll see what I can do on direct examination with it. And I won't tell you about the laws in evidence in California that applies to what you can and can't say in direct examination. What you can and can't quote doesn't matter.

In your opinion, as Philip Morrow's expert on whatever subject it is, the historical aspects of smoking and health in California -- is that what it is? Is that what your area is?

A Historical aspects of smoking and health in California and --

Q Yeah?

A -- public awareness of smoking and health in California.

Q With all that in mind, this is your field. I want to know after all the work you've done, aside from

telling me that you think more than 60 percent of adult smokers in California knew about the serious health consequences of cigarette smoking in 1990, can you get any closer than that?

MR. STOEVER, JR.: Objection. Asked and answered.

THE WITNESS: I don't have an exact percentage.

MR. PIUZE: Thank you very much. I'm done with that. I cannot chase you anymore. It's getting late.

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Q Now here's a whole bunch of stuff that didn't get clipped together. What is this?
A Los Angeles Times.
Q So all the rest of this file is individual articles out of the Los Angeles Times?
A May I take a look?
Q Sure.
A These are Los Angeles Times articles from I believe 1956 through 1970, or -- actually it would be -- I'm sorry. There would be additional L.A. Times articles on the specific topics, events in my chronology. These are all Los Angeles Times articles.
Q With all due respect, I don't think you said that very artfully. Let's split it up into two categories. Some of that stuff is every single, solitary smoking and health article that could be found in the Los Angeles Times between --

A Mid 1956.
Q Until?
A 1970.
Q And in addition to that there are other Los Angeles Times articles that are -- go beyond 1970 that deal with your 47 topics?
A That's correct.
Q And where is the demarkation line? Is there one?

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A 1970. This ends in 1970, right here (indicating).
Q Hang on. I will put a piece of pink paper in there.
A Hold on. I don't think I have the exact last article in 19- -- it's right here (indicating).
Q Okay. Have we now discussed all of the reliance documents that you brought with you?
A I believe so.
Q And in addition, have we discussed all of the other exhibits that you brought with you?
A Other exhibits that I brought with me?
Q Yeah. Well, like billing, correspondence, C.V., the non-reliant stuff.
A I understand.
Q So that's a yes to that?

A Yes.
Q Everything you brought in the two boxes we have now discussed?
A Right.
Q Have you ever seen the expert witness designation that Philip Morris authored concerning you?
A Yes.
Q When?
A I saw it yesterday.
Q Where?

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A At Arnold & Porter offices here in Los Angeles.
Q What did you do down there?
A I reviewed my reliance materials with Mr. Stoever.
Q Really? All this stuff?
A Yes.
Q How long did it take?
A Maybe four hours.
Q Did he take anything out?
A No.
Q Did you take anything out?
A No.
Q Did he add anything?
A No.

Q Did you add anything?
A No.
Q How long have you had the reliance materials in the form in which they now exist?
A You mean --
MR. STOEVER, JR.: Objection. Vague and ambiguous. You mean organized as they are, as we produced them here?
MR. PIUZE: No. It's vague and ambiguous. I apologize. I withdraw that question.
Q When is the last time that material was added to these reliance documents?

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A Probably within the last week.
Q What?
A L.A. Times articles, for example.
Q How come that didn't get done a long time ago?
A Because my research assistants that I'm using are still working on the Los Angeles Times.
Q Why didn't you get them started sooner?
MR. STOEVER, JR.: Objection. It's been asked and answered. You already testified about this.
Go ahead, if you know.
THE WITNESS: It's a big project.
BY MR. PIUZE:
Q Okay. I'd like to read this to you and get your response. "Dr. Snetsinger is expected to testify

about proper historical methods."
What are proper historical methods?
A Establishing questions that I'm going to be asking in my project, which I've already discussed: Ensuring a lack of bias, as I gather materials, deciding what materials I need, what archives I need to go to collect those materials, working with my research assistants, using my background as a professional historian to put the material together and draw conclusions.
Q Uh, in order to ensure that your opinions would be unbiased, why didn't you contact me to see if I had any information to give you?

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A Because I believed that I was perfectly able to conduct a project as a professional historian without bias myself.
Q Yeah, but you didn't conduct it yourself. You were getting unsolicited stuff from other historians on the tobacco industry payroll, correct?
A I was getting materials from historians. What financial arrangements they have, I don't know.
Q But you've already told me you made the assumption they were working for the tobacco industry on the similar projects, right?
A In most cases maybe. Yes, I did.
Q So why didn't you come to the plaintiff's side

of the table and ask me to give you information to ensure that you'd be unbiased?
A Because I don't believe that I needed to go to any particular person to remain unbiased. I think I can conduct a research project myself without bias entering in.
Q Well, if you thought you could conduct the research project yourself, why didn't you turn away the unsolicited documents that were coming your way from other historians who you believed to be on the tobacco industry's payroll?
A I don't believe -- I don't believe I received any of that information in the last -- that I can think

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of -- in the last couple of months. I felt satisfied that I was running a project without bias and, uh, I think I know where to go to study the issues of public awareness on smoking and health issues in California.

Q When you asked Arnold & Porter to for videotapes and they sent you six more gratuitously, that you didn't ask for, don't you think that maybe bias starts creeping in there; that you're not only reading what you want to read and seeing what you want to see, but they're now forcing you to read and see what they want you to see.

MR. STOEVER, JR.: Objection. Argumentative. Compound. Vague and ambiguous.

BY MR. PIUZE:

Q Didn't that occur to you?

A No.

Q Now, when they sent you stuff for you to look at, didn't it occur to you that you should call me and ask, "Mr. Piuze, you got some stuff you want me to look at, too"?

MR. STOEVER, JR.: Objection. Asked and answered.

THE WITNESS: No.

BY MR. PIUZE:

Q When you watched that Death in the West tape, did you believe that the executives from Philip Morris were flat out lying on this tape?

A I don't --

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MR. STOEVER, JR.: Objection. Vague and ambiguous.
THE WITNESS: I don't remember what I thought when I saw that tape.
BY MR. PIUZE:
Q Well, I'm asking you now, do you think they were lying?
MR. STOEVER, JR.: Objection. Vague and ambiguous. It's been asked and answered.
THE WITNESS: No.
BY MR. PIUZE:
Q Why not?

A I don't consider myself an expert on the industry and it's, uh, it's responses in something like that, and I did not -- when I saw that tape, I did not think -- I did not think that the tobacco industry representatives were lying.
Q Okay. Well, I want to remind you that was Philip Morris executives only in that case.
Do you remember that?
A No, I don't remember.
Q Death in the West is Marlboros?
A Okay.
Q Nothing but the Marlboro, right?
A Yes.
Q Philip Morris makes Marlboro?
A Yes.

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Q No one else makes Marlboros?
A No.
Q So it’s Philip Morris executives on this tape, right?
A Yes.
Q One of them said -- it’s been a while, but one of them said they believed that the air quality in New York City probably played more of a role in lung cancer than smoking cigarettes?
A I don’t know.

Q You don’t remember seeing that?
A Yes.
Q That’s the kind of thing that would sort of make the hair on your head stand up, wouldn’t it?
MR. STOEVER, JR.: Objection. Vague and ambiguous. Calls for speculation.
THE WITNESS: Again, I don’t remember that comment.
BY MR. PIUZE:
Q Well, what if I put to you today the quality of the air in New York City has more to do with lung cancer than smoking cigarettes? What would you say to that?
A I need to know more about the context and why you’re saying it and --
Q No, you don’t. Just based on that. Forget why I’m saying it. I mean, maybe I’m saying it because I’m an executive for Philip Morris and I lie. If I look you right

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in the eye and say the air quality in New York City has more to do with developing lung cancer than smoking cigarettes, do you think I'd be lying?

MR. STOEVER, JR.: Objection. Calls for speculation. Asked and answered. He's provided you with his opinion.

BY MR. PIUZE:

Q Go ahead.

A I don't think that the context of asking

something like that to me is comparable to what was said or who said it. I just don't know enough about the comment to make a comment on it.

Q Should Betty Bullock have known that smoking cigarettes was a dangerous thing to be doing in the mid '70s?

A I believe so.

Q When did the Philip Morris executives stare into the television camera and say that the air quality in New York City probably had more to do with lung cancer than smoking cigarettes?

MR. STOEVER, JR.: Objection. Assumes facts not in evidence. He already told you he didn't remember that happening.

BY MR. PIUZE:

Q What year was that?

A I don't know the year.

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Q What is the last time you watched Death in the West? Tell me again.
A Sometime in the last two years.
Q Why isn't that in here? Why didn't you bring it with you?
A Because I believe that the research that I've done provides a review of public awareness issues on smoking and health.

Q Do you know what misinformation is?
A Yes.
Q What?
A Misinformation is misinformation. It's information that misleads, I would say.
Q Do you know what disinformation is?
A I'm not sure of the definition of disinformation.
Q Okay. Have you ever heard of the term?
A Yes.
Q What do you think it means, in your own mind?
A I'm not sure. Disinformation? I'm not sure of the definition.
Q Haven't you concluded that the tobacco industry provided misinformation to smokers in America in the '70s?
MR. STOEVER, JR.: Objection. Misstates his testimony.
THE WITNESS: No.

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BY MR. PIUZE:
Q Haven't you concluded that Betty Bullock was one of those smokers who got misinformation in the '70s?
MR. STOEVER, JR.: Objection. Misstates his earlier testimony.
THE WITNESS: No.

BY MR. PIUZE:
Q Haven't you concluded that the tobacco industry provided misinformation to the smokers in the '80s?
MR. STOEVER, JR.: Objection. Misstates his testimony.
THE WITNESS: No.
BY MR. PIUZE:
Q Haven't you concluded that Betty Bullock was one of the people that got misinformation from the tobacco industry in the '80s?
MR. STOEVER, JR.: Objection. Misstates his earlier testimony.
THE WITNESS: No.
BY MR. PIUZE:
Q Haven't you concluded that the tobacco industry presented misinformation to Betty Bullock in the 1990s?
MR. STOEVER, JR.: Objection. Misstates his testimony.
THE WITNESS: No.

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BY MR. PIUZE:
Q Haven't you concluded that Betty Bullock got misinformation from the tobacco industry in the 1990s?
MR. STOEVER, JR.: Misstates his testimony.
THE WITNESS: No.
///

BY MR. PIUZE:
Q Okay. Do you know what rationalization is?
A Yes.
Q What?
A Rationalization is the process of coming up with a reason to justify what you want something to be.
Q Does that apply to professors?
A Uh, I believe it applies to everyone. Rationalization would apply to everyone.
Q That's a yes, professor?
A The question was does it apply to professors? Yes.
Q Does it apply to executives of corporations?
A I would think that it could apply to everyone.
Q Well, then, it does?
A It does.
Q Does it apply to smokers?
MR. STOEVER, JR.: I object to this whole line of questioning. This witness is not a psychologist or psychiatrist and is not being offered for that purpose.

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If you know about rationalizations, go ahead and answer the question. But don't guess.

THE WITNESS: I don't know a lot of about rationalization. I'm not a professional in this area.

///

BY MR. PIUZE:

Q Which area would that be?

A Area of psychological, uh, reasoning.

Q Do you know who Ellen Murlow is?

A No, I don't.

Q Back to your designation.

"Dr. Snetsinger is expected to testify about" -- now, skipping, because you already said one. Next one is health risks -- excuse me.

"Dr. Snetsinger is expected to testify about the concepts of common knowledge in the context of history."

What are the concepts of common knowledge in the context of history?

A I would define common knowledge as something widely held within the city, which may be a basic definition, but I think that covers it. Something that is commonly known, widely known, and accepted within the society.

Q Okay. Context of history?

A You have to understand events in the context in

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which they are considered and not use the justifications of the contemporary ideas of 2001 to judge an event in 1950.

Q That's fair enough.

So if we want to look at why Betty Bullock did

something, we shouldn't be judging it by the context of 2002, we should be judging it by the time in which she did it, correct?

A That sounds fair.

Q Okay. Good.

Now, Dr. Snetsinger will testify about the long-standing awareness of the health risk associated with smoking.

Have you done that now?

A Yes.

Q Do you have more to add that you haven't already told me about?

A I believe I do have more than we've talked about today. You mean on The health risks of smoking?

Q Yeah. The long-standing awareness of the health risk associated with smoking.

A I mean, it's such an open question. I'm not sure what you want me to focus on.

Q Your opinion.

A My opinions are that in California, by the 1960s that it was common knowledge that cigarette smoking caused lung cancer, was habit forming, difficult to quit,

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and these are points that Betty Bullock knew, and that in California, more than in other states, there was more awareness on the part of Californians of the seriousness of

the risks of smoking, because of activities of both governmental, non-governmental and private and public health organizations.

Q Is that it?

A That's a summary.

Q Is there more?

A Not that -- I believe, as a summary, I think that would be the basic point of my conclusions.

Q All right. So did you put years on that, or did you just say long-standing?

A Did I put years on what?

Q That summary opinion that you just gave.

A I don't understand.

Q When should Betty Bullock have known that there was -- excuse me. This says, "There is a long-standing awareness of the health risk associated with smoking." And I'm saying, how long-standing? I thought you gave numbers in the last answer.

A I gave an event that has a date.

Q And, that is, by the time of the Surgeon General's reports in 1964, you believe that it was common knowledge that cigarette smoking caused lung cancer, and the tobacco companies knew that?

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MR. STOEVER, JR.: Objection. Beyond the scope of this witness' testimony.

THE WITNESS: I don't know that.

BY MR. PIUZE:

Q Well, you -- I mean, if it was common knowledge, then they knew it, right?

A Again, I don't know what the tobacco companies knew.

Q Then you don't know what Betty Bullock knew.

MR. STOEVER, JR.: Objection. Misstates his earlier testimony.

BY MR. PIUZE:

Q You can't have it both ways now, can you?

MR. STOEVER, JR.: Objection. I think that mischaracterizes his testimony and uniformly constrains his testimony.

BY MR. PIUZE:

Q Well, can you have this both ways? You're going to tell us what Betty Bullock knew, but not what the tobacco industry knew?

A I haven't studied the tobacco industry's internal documents and what they knew.

Q Why not?

A Because my theme, or my focus, has been public awareness in smoking and health issues. I believe I've already testified to the idea that the tobacco companies

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continue to take an increasingly minority position of the --

Q That's not what I'm asking. That's the position they took. I'm saying they knew. They knew. If Betty Bullock knew, they knew.

MR. STOEVER, JR.: Misstates his earlier testimony. It's been asked and answered.

BY MR. PIUZE:

Q The public position they took, they could be lying to sell more cigarettes. You've generally considered that, right?

MR. STOEVER, JR.: That's argumentative. Assumes facts not in evidence.

BY MR. PIUZE:

Q Have you considered that?

A I haven't studied that.

Q Have you considered that when they said we don't know, we need more studies, it isn't really proven, haven't you even considered the fact that they were lying so they could make billions of dollars a year while people continued to smoke deadly products?

A No.

MR. STOEVER, JR.: Assumes facts not in evidence. Objection.

BY MR. PIUZE:

Q You haven't considered that? Okay.

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Don't you think you should?
MR. STOEVER, JR.: Objection. Argumentative.
THE WITNESS: No.
BY MR. PIUZE:
Q Dr. Snetsinger will testify about the long-standing awareness, including the awareness that smoking can be habit forming or addictive.
What opinions do you have about how long people have known that cigarette smoking can be habit forming and addictive?
MR. STOEVER, JR.: Objection. Asked and answered. He's already testified about that.
BY MR. PIUZE:
Q How long?
A I've already testified to the fact that by 1964 that it was common knowledge that cigarette smoking was habit forming and extremely difficult to quit.
Q What good would that do for someone who already started smoking and had formed a habit?
A I didn't exclude the idea that someone can quit smoking. My point was that it's a difficult -- it's a habit that is difficult to break.
Q I understand that. But for someone who already had the habit that's difficult to break, what would that knowledge do, that it's habit forming and difficult to

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break?
A By the 1960s, somewhere around the late '60s, 21 million former smokers had quit. So it seems to me it becomes an awareness point that it's a difficult habit to quit, but people could do it. By the 1970s, it was over 30 million. 30 million people quit smoking.
Q And so --
MR. STOEVER, JR.: Objection. Vague and ambiguous.
BY MR. PIUZE:
Q So what does that prove?
MR. STOEVER, JR.: Objection. Vague and ambiguous.
BY MR. PIUZE:
Q It's habit forming and difficult to quit, but not that habit forming and not that difficult to quit? Is that what it means?
A Yes.
Q It says here you're going to give us opinions about the common knowledge that it was addictive.
Tell me your opinions about the common knowledge it was addictive.
A Again, the same time period. By 1964, I believe that it was common knowledge that cigarette smoking was, as the term is commonly used, addictive and habit forming and difficult -- I think it's the same as the previous question, if I'm correct.

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Q But the tobacco industry denied that it was addictive, didn't it?
MR. STOEVER, JR.: Objection. Calls for speculation.
If you know.
THE WITNESS: I don't know if they knew it was addictive.
BY MR. PIUZE:
Q You're kidding. You really, truly don't know that?
A No.
MR. STOEVER, JR.: Objection. Vague and ambiguous as to time.
BY MR. PIUZE:
Q Go ahead. You threw out '64.
'64 it was known that it was addictive?
A Yes.
Q I'm saying, didn't the tobacco industry know it was addictive in '64?
A That I don't know.
MR. STOEVER, JR.: That's not the question you asked before.
MR. PIUZE: Well, that's the question that I'm asking now.
MR. STOEVER, JR.: It's vague and ambiguous. Beyond

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the scope of this witness' expertise.
If you know what the tobacco company knew, go ahead and answer.
THE WITNESS: I don't know what they knew.
BY MR. PIUZE:
Q Okay. Well, how come you know what Betty Bullock knew but you don't know what the tobacco industry knew? How does that happen?
MR. STOEVER, JR.: Objection. Asked and answered. He's read her deposition, the depositions of her brothers and sisters.
BY MR. PIUZE:
Q Why didn't you read Philip Morris' deposition?
MR. STOEVER, JR.: Objection. Assumes facts not in evidence. I'm not aware of any Philip Morris depositions taken in this case.
MR. PIUZE: Who said anything about this case.
THE WITNESS: My subject was public awareness in smoking and health and studying Philip Morris documents I don't think would directly relate to that.
BY MR. PIUZE:
Q If I told you that Philip Morris had an active role in underminding the public awareness of the health risks associated with smoking, would you be able to agree or disagree with that?

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MR. STOEVER, JR.: Objection. Lacks foundation. Assumes facts not in evidence. Incomplete hypothetical.
THE WITNESS: I don't know.
BY MR. PIUZE:
Q If I told you that Philip Morris took an active role in denying to the public that cigarette smoking was addictive, would you agree or disagree?
MR. STOEVER, JR.: Objection. Lacks foundation. Assumes facts not in evidence.
THE WITNESS: I don't know.
BY MR. PIUZE:
Q Do you know if Philip Morris has a web site?
A Yes.
Q Have you ever visited it?
A Yes.
Q Have you ever asked the web site whether or not smoking is addictive?
A Have I asked the web site?
Q Have you looked?
A Yes.
Q What does it say?
A I believe it says that smoking -- I'm sorry -- that smoking is addictive, as the term addictive is commonly understood, or something to that effect.
Q Then do you know the answer to some of these

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questions I was asking?
MR. STOEVER, JR.: Objection. I think that misstates his earlier testimony and mischaracterizes your question.
THE WITNESS: I believe that that is something that Philip Morris said, I believe, in about 1992, though, and you are talking now about the 1950s and ’60s.
BY MR. PIUZE:
Q That’s true. Philip Morris denied that smoking was addictive for 50 years, until the year 2000, right?
A Is it -- I don’t know.
MR. STOEVER, JR.: Objection. It’s been asked and answered.
BY MR. PIUZE:
Q Right?
MR. STOEVER, JR.: Calls for speculation.
If you know what Philip Morris’ position was --
BY MR. PIUZE:
Q Philip Morris denied that there was proof to cigarette smoking causing lung cancer for 50 years, until the year 2000, didn’t it?
MR. STOEVER, JR.: Objection. Calls for speculation.
If you know what Philip Morris’ position was --
THE WITNESS: I don’t know.

BY MR. PIUZE:

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Q Don't you feel bad about being here giving opinions without knowing?
MR. STOEVER, JR.: Objection. Argumentative.
THE WITNESS: No.
MR. STOEVER, JR.: You don't have to answer that question.
BY MR. PIUZE:
Q You don't?
MR. STOEVER, JR.: Objection. It's argumentative. Whether he feels bad or not is irrelevant to any subject that he's here to testify about.
BY MR. PIUZE:
Q It shouldn't. If it is, it shouldn't be. If I say to you, Philip Morris, for money, approximately $5 billion a year, at current rates, lied and misled smokers so they'd keep smoking, do you have any kind of opinion whether that's true or not?
MR. STOEVER, JR.: Objection. Assumes facts not in evidence. Incomplete hypothetical. Lacks foundation. Beyond the scope of this witness' designation.
If you know, you can answer.
THE WITNESS: I don't know that.
BY MR. PIUZE:
Q Would you like to know that?

MR. STOEVER, JR.: Objection. It's argumentative.
BY MR. PIUZE:

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Q Would you like to know that?
A I'd like to know -- well, a lot of -- I have a lot of information on smoking and health issues, but I'm saying that -- you're asking me now, do I know that, and my answer is no.
Q No. My question is, would you like to know if that was true?
MR. STOEVER, JR.: Objection. Argumentative. Assumes facts not in evidence. Not relevant.
THE WITNESS: The question is would I like to know what?
BY MR. PIUZE:
Q If it was true that Philip Morris purposely lied, misled, and concealed facts having to do with the health risks of smoking so that people would -- and the addictiveness of smoking -- so that its customer would continue to buy its product and make Philip Morris rich.
MR. STOEVER, JR.: Objection. Assumes facts not in evidence. Incomplete hypothetical. Lacks foundation. Beyond the scope of this witness' designation, and calls for speculation.
BY MR. PIUZE:
Q Would you like to know that?

A I'd like to know the truth on every area of smoking and health, but it doesn't mean that I've studied every area on smoking and health.

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Q Would you like to know that?
MR. STOEVER, JR.: Objection. Same objections.
THE WITNESS: Would I like to know if it's -- could you state it again? Would I like to know --
BY MR. PIUZE:
Q Whether it's true that over the entire course of time that Betty Bullock was smoking, and ending in the year 2000, Philip Morris actively lied, hid information, provided misinformation, about the serious health risk of smoking and about the addictive nature of smoking so that its customers would continue to smoke cigarettes.
MR. STOEVER, JR.: Objection. Lacks foundation. Asked and answered. It's argumentative. Calls for speculation. Assumes facts not in evidence. And it's not relevant to the opinions this witness is going to express at trial.
THE WITNESS: I always want to know the truth, but in this case I think it's just a hypothetical that I don't -- I don't accept. I don't know about the assumption. I don't have knowledge about the assumption, so I don't want to say that I know the truth about something that I don't know what the assumption is, or I

don't know that the assumption has any basis.
BY MR. PIUZE:
Q That's what I'm telling you. Do you want to know if it does have a basis?

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MR. STOEVER, JR.: Objection.
BY MR. PIUZE:
Q Do you want to know the truth about that?
MR. STOEVER, JR.: Objection. Asked and answered. Argumentative. Assumes facts not in evidence. Beyond the scope of this witness' designation.
THE WITNESS: I do want to know the truth.
BY MR. PIUZE:
Q Why don't you go look for it? Why don't you go to look for it?
A I believe I have looked for the truth on my issues.
Q I'm asking about this issue that I raised here. Why haven't you gone out and looked at that?
MR. STOEVER, JR.: Objection. Beyond the scope of this expert's designation.
THE WITNESS: It hasn't been a part of my -- hasn't been a part of my project on public awareness on smoking and health issues. That's why. It's another subject.
BY MR. PIUZE:
Q It's another subject?

A I believe so.
Q Don't you see that if what I'm telling you is true that it would undermine all this other information, especially in the eyes of smokers who are addicted?
MR. STOEVER, JR.: Objection. Assumes facts not in

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evidence.
BY MR. PIUZE:
Q Don’t you see that?
MR. STOEVER, JR.: Objection. Assumes facts not in evidence. Argumentative.
THE WITNESS: I don’t know that.
MR. PIUZE: Okay.
Q Uh, "Dr. Snetsinger’s testimony will focus on the awareness of the risks of smoking, in general, in California, and in those communities in which the plaintiff lived."
Have you told me your opinion on those things so far?
A A little bit.
Q Tell me more.
A Which part of it?
Q All of it.
A Okay. Betty Bullock lived in communities that I believed were, even for California, particularly sensitive to the anti-tobacco movement, in which there were

more restrictions on smokers, and that it is also a part of the growing awareness that she would have, the continuing awareness of the dangers of smoking.
Q Is that it?
A In summary.
Q "Dr. Snetsinger will testify about the response

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of government and public health committees in California to evidence linking smoking and disease."

Have you told me about that?

A I believe we've talked a little bit about the California public health outreach by the State, but I would want to expand that to include National Public Health Organizations, like The Cancer Association, The Heart Association, as well as other national, governmental health organizations, such as the Surgeon General's office, the National Cancer Institute and their involvement in public education and making the public aware of the risks of smoking.

Q Was Philip Morris part of the public?

A Part of the public?

MR. STOEVER, JR.: Are you asking about the corporation or the people in it or --

MR. PIUZE: The corporation.

Q We're talking about the public knowing. What the public told the public, and what the cancer association

told the public, and what the lung association told the public.

Are you including Philip Morris as part of the public here?

MR. STOEVER, JR.: Objection. It's vague and ambiguous. Calls for speculation.

THE WITNESS: When I think of "the public," I think

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of individuals in the public, not a corporation.
BY MR. PIUZE:
Q What about the individuals who are the executives of Philip Morris that make the decisions?
A What about them?
Q Are you including them when you use the term "public"?
A Yes.
Q When the lung association told the public that cigarettes were bad, you would have assumed that the executives of Philip Morris believed that?
MR. STOEVER, JR.: Objection. Calls for speculation.
THE WITNESS: No, I wouldn't know.
BY MR. PIUZE:
Q No? You would expect that Betty Bullock would believe it though, right? Right?
A I believe that Betty Bullock was aware of the

health risks of smoking.
Q But you don't believe the executives of Philip Morris were?
A I don't know.
Q They're members of the public, actually?
A Yes, they were members of the public.
MR. STOEVER, JR.: Objection. I'd like the record to reflect that Mr. Piuze is nodding his head.

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MR. PIUZE: I am nodding my head. That's because I'm putting myself to sleep in part.
MR. STOEVER, JR.: And trying to get an affirmation from the witness.
MR. PIUZE: I am nodding my head. I plead guilty to nodding my head.
Now you're nodding your head.
THE WITNESS: I didn't know I was nodding my head.
BY MR. PIUZE:
Q Why should Betty Bullock know all these things, but the executives of Philip Morris shouldn't? What is your answer?
MR. STOEVER, JR.: Objection. Calls for speculation. If you know about the executives of Philip Morris, you can answer.
THE WITNESS: But I don't know about the executives at Philip Morris.

BY MR. PIUZE:
Q Sure you do. You saw Death in the West, didn't you?
A I did.
Q You know something about the executives of Philip Morris. They were talking right there to you at Death in the West, weren't they?
A I believe so.
Q So why should Betty Bullock know about all

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these risks of health and addictiveness when the executives of the Philip Morris shouldn't?

MR. STOEVER, JR.: Objection. Calls for speculation. It's been asked and answered.

THE WITNESS: I don't know all about the executives. I don't know --

BY MR. PIUZE:

Q When this is all over --

A -- about all the executives in Philip Morris.

Q When the case is over, you should take your money and walk away from this. Seriously. Think about it after you're gone from here. Think about all this stuff.

Dr. Snetsinger, I wouldn't waste my time saying that to just anyone, but I'm choosing to say it to you. Think about it.

"Dr. Snetsinger's testimony may include, but

will not be limited to, the means by which messages about smoking and health should be communicated to the public."

Have you told me your opinions on this subject?

A In part, I believe.

Q Tell me more.

A Could I hear the conditions over again?

Q Sure.

"Dr. Snetsinger's testimony may include, but will not be limited to the means by which messages about

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smoking and health have been communicated to the public."

A Well, we've talked about newspapers, magazines; we talked about the nightly news. We haven't talked about local news, which also would be another area in which the message was made. We've talked a little bit about public schools. We've talked a little bit about public schools, and we talked a little bit about public service announcements at the State level. We haven't talked about public service announcements at the national level, particularly in the years 1969 through 1971 when there's a large number of national public service announcements on the risks of smoking.

We haven't really talked too much of a degree yet about the message in the 25 Surgeon General reports on smoking since '64, and the continuing and increasingly

strong message of risks of smoking that are included in those. I believe everything in this area is represented in the boxes of materials, but I believe those are some of the additional ones that I would add to it, what we talked about earlier.

Q "Dr. Snetsinger may be asked to comment upon the opinions expressed by other witnesses."

Now, are you prepared to comment on the opinions expressed by other witnesses?

A Uh, can I hear the exact language again?

Q "Dr. Snetsinger may be asked to comment on the

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opinions expressed by other witnesses."
A Yes, I believe I can.
Q Go ahead.
A But I'd note, at this point, I'm not familiar with the testimony of other witnesses.
Q So right now you have no information to comment on the opinions of other witnesses, opinions of other witnesses?
A I don't have -- I don't have information on the other witnesses now, so I could not comment on it.
Q Thus far today have you told me about all of the opinions you express -- you expect to express at the time of trial?
A I believe that I've covered most of the

summaries of opinions.
Q What summaries have you not covered?
A Uh, nothing that I can recall right now.
Let me think.
Q How many hours are there between 9:00 and 6:00?
A Between 9:00 and 6:00, I believe, is nine hours.
Q And if you subtract one for lunch, how many do you have there?
A I have eight hours.
Q What's eight times 140.

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A Eight times 140? Eight times 140 is 800 -- let's see. 11 -- a little over 1100.
Q 1120?
A 1120? 1120, that's right.
Q What's 1120 minus 140?
A What's 1120 minus 140? Uh, it's around 1,000. Right around 1,000.
Q 980. That's how much I owe you, right?
A I assume that's the case, but I haven't calculated it in my own mind.
MR. PIUZE: Do you have any questions?
MR. STOEVER, JR.: Not today, no.
Are we done?

MR. PIUZE: We are done.
Now, do I have to put our stipulation on the record? Can you get it from the other reporter?
I'll stipulate that the court reporter can be relieved of all of her obligations under the Code; send the original deposition to Arnold & Porter -- to the attorneys at Arnold & Porter, who agree to notify me of any changes, additions or corrections to the witness' testimony within 30 days of his lawyer's office receipt of the deposition, or what did we say last time?
MR. STOEVER, JR.: I don't remember how many days. It was before testimony at trial.
MR. PIUZE: In this case, how about within two weeks

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of his testimony, because it won't be for two months?
MR. STOEVER, JR.: That's fine.
MR. PIUZE: If not so informed, I can use my copy as if it is a signed, sealed and delivered original.
So stipulated?
MR. STOEVER, JR.: So stipulated.
MR. PIUZE: This witness can sign it under penalty of perjury at a time and place of his choosing.
So stipulated?
We're done.
MR. STOEVER, JR.: So stipulated.
(Deposition was concluded at 6:00 p.m.)

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I, the undersigned, say I have read the foregoing deposition and hereby declare under penalty of perjury the foregoing is true and correct.
Executed this day of , 200 , at , California.

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D E C L A R A N T

STATE OF CALIFORNIA)
) ss.
COUNTY OF VENTURA)

I, FRANCES M. GARRITY, Certified Shorthand Reporter No. 8934 in the State of California, duly empowered to administer oaths, certify:

That prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify the truth, the whole truth, and nothing but the truth;

That said deposition was taken before me at the time and place therein set forth and was taken down by me in shorthand and thereafter transcribed under my direction and supervision, and I hereby certify that the foregoing

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deposition is a full, true, and correct transcript of my shorthand notes so taken.

I further certify that I am neither counsel for nor related to any party to said action nor in anywise interested in the outcome thereof.

In witness whereof, I have hereunto subscribed my name this day of , 2002.

FRANCES M. GARRITY
Certified Shorthand Reporter No. 8934

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